

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 08, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|----------------|--------------------------------------|---|
| | Welcome and Introductions | Chairman Pearce |
| | Assignment of Rules | Vice Chairman Bair |
| | Presentation: "Economic Impact Data" | Jack Lyman, Executive Director, Idaho Mining Association |

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippetts
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 08, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Siddoway, Brackett, Heider, Stennett, and Lacey

ABSENT/ EXCUSED: Senators Cameron and Tippetts

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER: **Chairman Pearce** called the Senate Resources and Environment Committee to order at 1:30 p.m. He welcomed the members of the Committee and the members of the audience.

INTRODUCTION OF PAGE: He introduced the **Committee's Page**, Jordan Price. Jordan's twin brother, Jacob, is also a Page, serving the Senate Agricultural Committee. They attend Capital High School.

ANNOUNCEMENTS: **Chairman Pearce** announced that there would not be a meeting Friday, January 10. There will be a Joint Meeting with the House Resources and Conservation Committee on Monday, January 13, in the Lincoln Auditorium at 1:30 p.m. The subject of the meeting is "Schedule and Overview of Programs" and "Financial Proposal" presented by Gary Spackman, Director of the Idaho Department of Water Resources (IDWR) and Roger Chase, Chairman of the Idaho Water Resource Board (IWRB).

RULES ASSIGNMENT: **Chairman Pearce** called on Vice Chairman Bair, rules chairman, to talk about the procedure regarding the rules. **Vice Chairman Bair** stated that instead of assigning individual rules to individual Senators, as has been done in past years, because there are so few rules to review (9), he asked that the Committee review all the rules. Agencies will be asked to send a representative at the appropriate time for presentation and discussion.

SPEAKER: **Chairman Pearce** welcomed **Jack Lyman**, Executive Vice President of the Idaho Mining Association (IMA), who presented a Power Point program on "The Economic Impact of Mining, 2012".

Mr. Lyman interspersed pictures of the Senators during his presentation, on or near equipment, when they were on a tour of the mines. This brought many "chuckles" from the Senators and helped to make the presentation more enjoyable. **Mr. Lyman** gave credit to Steven Peterson, Research Economist at the College of Business and Economics, University of Idaho, for providing the statistics for this presentation.

The IMA represents the following mining companies (operating members): Hecla Mining, U.S. Silver and Gold, Thompson Creek, J. R. Simplot, Agrium, and Monsanto. Not represented by IMA are mining companies that are exploration members. They are: Sunshine Silver Mines, Midas Gold, Formation Capital, and Paris Hills.

Production information on minerals for 2012 is preliminary; however, it appears that the total for phosphate, moly and silver, sand and gravel, and other minerals total \$5.3 billion for a five year period. In 2012, production was down significantly from previous years. Two factors relating to the downturn this past year are the closure of the Lucky Friday Mine (for safety reasons by Hecla Mining) and Thompson Creek's lower price for moly. The highest value reached in history was \$1.3 billion in 2011.

Mr. Lyman said that there are approximately 3,200 people (under IMA) working in the mining industry. Average salaries are \$80,000 per year, and with benefits, this increases to \$100,000. Their spending reverberates through the economy and adds to the state gross product \$1.1 billion, an increase over last year. Direct compensation in 2012 was \$278 million in wages. Total compensation is calculated using both those in the industry and also those employed because of the industry, called "indirect and induced", which increases total number employed to approximately 9,000 people, who average \$60,000 annually in wages.

One mining job adds about \$356,000 to the gross state product, creating 1.83 additional jobs, which then yields approximately \$33,200 in taxes. If 500 new mining jobs could be added, it would add \$175 million to the gross state product, create 946 additional jobs, and could yield \$16.6 million in taxes.

Mr. Lyman indicated that there is some bad news. The reason the numbers are down from last year is because of what has happened to the price of silver. Cost of production varies from mine to mine. Silver was at a high of \$48.58, but is now at \$20.10. Gold was high at \$1900 an ounce, but is now at \$1200 an ounce. Moly prices have not dropped as dramatically in the past five years. They dropped from the \$18 range to the \$9.50-\$10 range. Thompson Creek Mine is doing a reexamination of its operations. Fertilizer prices have also dropped, as well as cobalt prices.

Mr. Lyman concluded his presentation and said that he would stand for questions. **Chairman Pearce** inquired if anything positive has resulted from the invitational meeting that was held last session involving new mining companies wanting to start operations in Idaho. **Mr. Lyman** responded by saying Midas Gold is moving forward with their exploration and other projects have either slowed down or gotten mothballed. He said that he is more pessimistic now because of price, rather than federal actions.

Ms. Ann LeBelle, representing Midas Gold, said that they had received a permit in December, 2013, for continuing exploration on their project in Valley County. They are also working on a plan for mine development. They have projected over 500 jobs within the next 14 years. **Chairman Pearce** said he would love to see those 500 jobs materialize.

ADJOURN: **Chairman Pearce** thanked Mr. Lyman for his report, Ms. LeBelle for her remarks, and then adjourned the meeting at 2:00 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary

JOINT
**SENATE RESOURCES & ENVIRONMENT COMMITTEE
AND
HOUSE RESOURCES & CONSERVATION COMMITTEE**
1:30 P.M.
WW02
Monday, January 13, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|---------|--|--|
| | Presentation: "Schedule and Overview of Programs" and "Financial Proposal" | Gary Spackman, Director, Idaho Dept. of Water Resources and Roger Chase, Chairman, Idaho Water Resource Board |

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippetts
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

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MINUTES
JOINT MEETING
SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Monday, January 13, 2014

TIME: 1:30 P.M.

PLACE: WW02

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippets, Stennett, and Lacey

Chairman Denney, Vice Chairman Gibbs, Representatives Wood, Barrett, Eskridge, Raybould, Andrus, Shepherd, Wood, Boyle, Vander Woude, Gestrin, Miller, Anderson, Pence, Erpelding, and Rubel

ABSENT/ EXCUSED: Representative Moyle

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER AND WELCOME: **Chairman Pearce** called the Joint Meeting of the Senate Resources and Environment Committee and the House Resources and Conservation Committee to order at 1:30 p.m. in the Lincoln Auditorium. He welcomed Chairman Denny and his Committee; Gary Spackman, Director, Idaho Department of Water Resources (IDWR); and Roger Chase, Chairman, Idaho Water Resource Board (IWRB), as well as members of the audience.

SPEAKERS: **Director Spackman** made available to the Committee members IDWR's Annual Report for FY 2013, (see attachment 1), as well as copies of the presentation, "Program Overview and Financial Proposal" (see attachment 2). He addressed the order of business, then asked Chairman Chase to speak to the issues facing IDWR.

Before starting his presentation, **Chairman Chase** introduced the Board members that were in attendance. They were Vince Alberdi, Bert Stevenson, and Chuck Cuddy.

Chairman Chase said the State Water Plan was adopted by IWRB November, 2012 and became effective in 2013 with no action by the Legislature. For the first time it includes strategies and milestones for executing management policies and evaluating their effectiveness. A group of legislators had concerns about certain policies, so the Board committed to review them. Any modifications from this review is anticipated for the 2015 Legislative session.

Chairman Chase said that a big issue is the Water Sustainability Initiative Funding, which amounts to \$15 million in one-time funds in the Governor's budget. Following are the projects and their amounts:

- Mountain Home Air Force Base (MHAFB) Water Rights & Supply - \$4 million
- Northern Idaho Future Water Needs Studies - \$500,000
- ESPA Managed Recharge Infrastructure & Expenses - \$4 million
- Galloway Reservoir Project - \$2 million
- Boise River-Arrowrock Enlargement - \$1.5 million

- Island Park Reservoir Enlargement - \$2.5 million
- Water Supply Bank Computer Infrastructure & Costs - \$500,000

Another issue is how to keep Idaho's water within the state. **Chairman Chase** indicated that storage seems to be the answer. The aquifer at MHAFFB is dropping one to two feet per year and the Simplot Corporation has agreed to sell the State their water rights for that area. That will do two things – (1) Provide water on a consistent and constant flow for the Base and (2) reduce the demand that is put on the rest of the aquifer.

The Eastern Snake Plain Aquifer (ESPA) has had a declining storage problem. The average annual loss of aquifer storage from 1952 through 2008 was 214,000 acre feet. **Chairman Chase** said the last thing they want to do is to shut someone's water off, due to the lack thereof. The stabilization of ESPA is essential. It will prevent further ground water users versus surface water users conflicts and would also meet the State's Swan Falls Agreement obligations to maintain minimum flows at the Murphy Gage.

Chairman Chase's next topic was the future water needs of North Idaho. There are rivers and aquifers in Northern Idaho that are shared between states; also, there are no interstate agreements, compacts, or decrees that allocate this water. **Chairman Chase** warned the legislators that they need to account for how North Idaho's water is to be used and to not let the adjoining states develop a plan to take the water.

In 2008, House Joint Memorial No. 8 was created. The Memorial stated that "Water use conflicts, population growth, continued unprecedented drought, urban development, conjunctive administration, Endangered Species Act requirements and other additional demands are being placed on the already scarce water resources of the State." It directed the IWRB to investigate and pursue new reservoir projects statewide. Some of the sites included the Weiser-Galloway Dam, Island Park Reservoir, and Arrowrock Dam on the Boise River. This study is still going through the federal process with thanks to U.S. Senator Risch for obtaining federal funds.

Chairman Chase concluded his presentation and turned the remaining time to Director Spackman.

Director Spackman said that he wanted to elaborate on the water situation at MHAFFB because of his involvement in it the past four years. He learned that MHAFFB needed help in two areas - a high speed internet and a better water supply, and because of those four years of effort, they have acquired the last remaining sale of surface water on the Snake River, thanks to the J.R. Simplot Company.

Director Spackman reviewed several subjects for the Committee. One was the snow pack in the State, and stated that if Idaho doesn't have an above average year, he may be in a position to have to order curtailment of thousands of acres that divert ground water. He also talked about IDWR's organizational chart, noting that a new position has been added, that of deputy director. A brief review of the budget was made, as well as a 10 year comparison. The backlog of permits and applications have been steadily reduced the past two years, as well as pending lease applications. **Director Spackman** praised the staff for their efforts in this area.

Director Spackman talked about the recharge legislation that was proposed prior to the 2013 Legislature. The legislation was held because the Idaho Water Users Association wanted to refine the legislation. Between 20-30 drafting and review meetings were conducted during 2013 and there were significant attempts to find a compromise. The following is the current version of the draft legislation:

Proposes significant control and evaluation of appropriations for ground water recharge - condition of approval to ensure maximum benefit.

Proposes that Idaho Water Resource Board will promulgate rules to ensure that appropriation for ground water recharge and accrual of recharge credits will be consistent with goals of state water plan and comprehensive aquifer management plans.

Idaho Water Resource Board rules would establish priorities for appropriation and exercise of water rights for ground water recharge - both rights held by the Board or held privately.

Water supply bank (existing organization) would accrue and account for credits resulting from recharge activities.

In closing, **Director Spackman** said that he appreciated appearing before the Joint Committees and thanked Chairman Chase for his participation.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:22 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 15, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|-----------------------------------|---|--|
| Approval of Minutes | January 8, 2014 | Reviewed/motion - Sen. Lacey |
| RS22356 | To provide that Class 7 licenses and tags shall be exempt from certain set-aside funds | Sharon Kiefer, IDFG |
| RS22357 | To require reimbursement to the state relating to the illegal killing, possession or waste of protected wildlife | Sharon Kiefer, IDFG |
| Gubernatorial Appointment Hearing | Brad Corkill, Cataldo, Idaho, was appointed to the Idaho Fish and Game Commission to serve a term commencing July 1, 2013 and expiring June 30, 2017. | |
| Gubernatorial Appointment Hearing | Mark Doerr, Kimberly, Idaho, was appointed to the Idaho Fish and Game Commission to serve a term commencing July 1, 2013, and expiring June 30, 2016. | |
| Report | Idaho Department of Fish and Game Commissioners | Brad Corkill - Panhandle Fred Trevey - Clearwater Bob Barowsky - Southwest Mark Doerr - Magic Valley Randy Budge - Southeast Kenny Anderson - Upper Snake Will Naillon - Salmon Region |
| Testimony | Depredation issues | Constituents from District 23 |
| Response | Depredation issues | Commissioners |

COMMITTEE MEMBERS

| | |
|--------------------|--------------|
| Chairman Pearce | Sen Heider |
| Vice Chairman Bair | Sen Tippetts |
| Sen Cameron | Sen Stennett |
| Sen Siddoway | Sen Lacey |
| Sen Brackett | |

COMMITTEE SECRETARY

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Page - Jordan Price

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 15, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett, and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER: **Chairman Pearce** called the Senate Resources and Environment Committee to order at 1:31 p.m.

APPROVAL OF MINUTES: The first order of business was to approve some minutes. **Senator Lacey** made the motion, seconded by **Senator Bair** that the minutes of January 8, 2014 be approved. The motion passed unanimously by **voice vote**.

Senator Heider made the motion, seconded by **Senator Siddoway** that the minutes of January 13, 2014 be approved. The motion passed unanimously by **voice vote**.

WELCOME: **Chairman Pearce** welcomed the Idaho Department of Fish and Game Commissioners, Idaho Department of Fish and Game staff, and guests. Commissioners attending were Brad Corkill, Panhandle Region; Fred Trevey, Clearwater Region; Bob Barowsky, Southwest Region; Mark Doerr, Magic Valley Region; Randy Budge, Southeast Region; Kenny Anderson, Upper Snake Region; and Will Naillon, Salmon Region.

GUBERNATORIAL APPOINTMENT HEARING: **Brad Corkill** of Catalado, Idaho was appointed to the Idaho Fish and Game Commission to serve a term commencing July 1, 2013 and expiring June 30, 2017. Mr. Corkill provided the Committee with his "bio" and it states that hunting and fishing have been passions of his since childhood. His professional experiences have been a forest engineer for the U.S. Peace Corps, Malaysia; raw materials manager, Weathershed, Inc.; timber buyer and logging foreman, Potlatch Corporation; general manager, Regulus Stud Mills; and owner and president, Whiteman Lumber Company, Inc.

Mr. Corkill attended Oregon State University where he received his Bachelor of Science Degree, Forest Engineering. His professional and community affiliations include St. Maries School District 63, Board of Trustees (3 years); Kellogg School District 391, Board of Trustees (11 years), Board Chairman (6 years); and Shoshone Medical Center Foundation (6 years), Foundation President (2 years). He has also been a CASA volunteer, member of Timber Framers Guild; Timber Frame Business Council; Idaho Public Charter School Commissioner; Idaho Board of Scaling Practices; Board member 1st Judicial CASA; and Chairman, North Idaho Political Action Committee.

Some of the questions asked Mr. Corkill during his interview were his feelings about the landowner appreciation tags, wolves, sage grouse, endangered species, trappers-hunters with wolf permits, and the board that the Governor wants established regarding wolves. **Mr. Corkill** stated that in his area (the Panhandle Region) they do not issue landowner appreciation tags, so he is not familiar with that process. Regarding wolves, he would like to see the wolves reduced to a manageable level so that the elk herds can be more stable. If a board is established to control wolves, he would suggest that they use their money for the removal of wolves where the need is the greatest. In his area, five permits are issued per person (for hunting) and up to ten for trapping. As far as endangered species are concerned, he is not in favor of broadening the list. Sage grouse habitat needs to be preserved for their survival and regarding salmon, he is in favor of maintaining their survival as they are unique to Idaho.

When asked about his community involvement and how he might serve the Commission in that capacity, **Mr. Corkill** replied that he is well-known, is accessible to the citizens, and responds to all communications.

Chairman Pearce thanked Mr. Corkill for his public service and for appearing before the Committee. He then welcomed Mark Doerr.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Mark Doerr of Kimberly, Idaho was appointed to the Idaho Fish and Game Commission to serve a term commencing July 1, 2013 and expiring June 30, 2016. Mr. Doerr provided the Committee with his "bio" and it states that he is a life long resident of Idaho, an avid supporter of the Idaho Fish and Game Department and an advocate for the wildlife they are charged with managing. He would like to give his time and perspective and to continue the quality stewardship of the State's wildlife.

Current organizations of which Mr. Doerr is a member are the following: Ducks Unlimited; Aircraft Owners and Pilots Association; National Business Aviation Association; Idaho Aviation Association; and Federal Aviation Administration Safety Team. Past Boards, Commissions, and Councils on which he has served were the following: Twin Falls Flyers - Served as Board member and president; St. Edwards Parish Council - served as member and secretary; NTSB Accident Investigation Group; FAA Designated Pilot Examiner; Director of Operations, Chief Pilot, and Director of Training.

Mr. Doerr has been the owner and director of operations of Precision Aviation, Inc., since 2002. The company is a 135 Air Carrier providing charter, aircraft management, maintenance and instruction. His education was pursued at Hawthorne University where he received a Bachelor of Science degree in Aviation.

Similar questions were asked of Mr. Doerr as those asked of Mr. Corkill. **Mr. Doerr** said that it is in the State's best interest to not see any of the animals listed and to provide programs. Wolves are here to stay, mandated by the federal government, and the Commission should honor those objectives. There are policies in place to protect the salmon and that, too, needs to be honored. The template has been made for sage grouse, and in 2015, it will be put into place to keep the grouse off the endangered species list. With regards to making himself available to the sportsmen in his area, **Mr. Doerr** stated that he will be available, through whatever means, to the sportsmen. As for the sale of landowner appreciation tags, he is in favor of that.

TESTIMONY:

Mr. Jack Oyler testified in support of the two appointees. He said that he was on the interviewing committee and wanted to speak in favor of the two gentlemen.

Chairman Pearce announced that voting on the candidates will be held next Monday, January 20. He then welcomed Fish and Game Commissioner Bob Barowsky, who will act as moderator for the Commissioners.

**COMMISSIONERS
REPORT:**

Commissioner Barowsky invited Commissioner Randy Budge to speak first. His topic is the Landowner Appreciation Program (LAP).

Commissioner Budge explained the background of the landowner tags for the benefit of the Committee members. He said the landowner tags first were authorized by the Idaho Legislature in 1986 and are currently made available through a separate controlled hunt process available to landowners that provide valuable habitat for deer, elk, or pronghorn. The original intent of the landowner tag program was to provide a mechanism to allow landowners providing valuable habitat an opportunity to hunt their land in areas where hunting was restricted to controlled hunts. LAP tags are allocated in addition to, and proportional to, regular controlled hunt tag levels. In 2013, 236 LAP hunts were allocated at 10 percent, and 15 at 25 percent. Currently, 1,225 landowners with over 2,500,000 acres are registered in the program. Current LAP tags include 1,147 deer, 1,646 elk, and 181 pronghorn. Demand for antlered tags exceeds available tags in many LAP hunts. The following Commission rules (adopted in 2012) were rejected by the 2013 Legislature:

- a) 1 year waiting period in high-demand hunts;
- b) cap all LAP hunts at 10 percent tag allocation; and
- c) limit tag designation to family members, youth, direct employees or veterans.

Commissioner Budge said that information suggests the current program is not meeting the needs of landowners or hunters. Many sportsmen believe access should be part of any landowner tag program and that landowners should not profit from public wildlife. Landowners indicate the unreimbursed costs (e.g. forage consumption, fence repair, etc.) of supporting deer, elk, and pronghorn on private land is an issue. Increasing crop values and costs of depredation claims suggest other forms of compensation should be considered. The Commission strongly supports private property rights, including a landowner's right to manage access on their property.

The Commission is currently in the negotiated rule-making process and is addressing the following unresolved issues:

- a) inequitable distribution of LAP tags among landowners;
- b) increasing costs of depredation claims;
- c) equitable treatment of landowners based on the acres of valuable habitat provided; and
- d) sportsmen desire to have increased access to private land.

This was published January 1, 2014 and comments end January 22, 2014.

When asked if there was value in the negotiated rule-making process, **Commissioner Budge** replied that there was.

Commissioner Trevey was called upon next, he warned the Committee of the federal/state relationship. He said that it is not an issue yet, but feels that it needs to be considered. Hunting, fishing, and trapping need to remain a part of the State's rights. When national monuments are created (possibly the White Clouds area), there will be efforts to create a larger role for the federal government to manage the wildlife population. When questioned about his comments, he stated that his comments are related to the fundamental philosophy and the sovereignty of the State that it has the right to manage its wildlife.

Commissioner Anderson said one issue was regarding grizzly bears. They are expecting the U.S. Fish and Wildlife Service to issue a delisting sometime in 2014 or early 2015. Grizzly bears in 1980 totaled about 200. This year they number about 700+. The delisting goal was set at 300. There have been three incidents between humans and grizzly bears in region six this year. Prior, there were 11 incidents between 2002 and 2012. It is felt that the situation will only get worse. The second issue is the option of a natural bear bait that was started in the negotiated rule-making process last year. There have been 426 bear permits issued. Bear bait can be 200 feet from a stream, 200 yards from a main trail, and one-half mile from a main camp or residence. This only affects two areas - Unit 61 and 62a and is on a trial basis. **Commissioner Anderson** said there may not be a legal responsibility, but he feels there is a moral one, as he does not want anyone to be injured.

Commissioner Naillon's topic was the Elk Management Plan. He announced that they would be voting on a ten year Elk Management Plan that provides guidance for the Department on how to manage the elk. Elk populations have been increasing in and adjacent to some agricultural areas over the past decade. Concern for damage caused by elk is increasing in areas of the State that traditionally supported few elk.

Elk depredation was not regarded as a significant statewide issue in the 1999 plan and it provided no new guidance relative to depredation management. The 2014 plan provides specific guidance. Reducing elk-caused damage is a statewide management direction priority. It places priority on maintaining separation between elk and cattle in Eastern Idaho to prevent brucellosis transmission. It places priority on collaborating with landowners to implement a permanent solution. It also emphasizes proactive responsiveness, such as hiring of seasonal staff to haze in strategic areas (e.g. Challis and Bennett Hills). It emphasizes enlisting involvement of sportsmen in resolving depredations.

A pilot program of driving elk off private property was initiated in Custer County and has seemed successful. A local resident was hired for \$1,500 and was provided with a pickup and 4-wheeler to haze the elk off the properties and into the hills. Two years ago, the depredation claims amounted to \$37,000. Today, there have been no claims filed (as yet). One of the shortfalls of the program was the ending date - the elk came back - and the other problem was the nonparticipating landowners.

Commissioner Corkill said he would like to brief the Committee on three topics that are going on in the Panhandle area. He said the Farragut Shooting Range case has been solved and resolved to the satisfaction of the sportsmen there. There are four shot gun ranges, 50 yard, 100 yard, 200 yard rifle ranges and a law enforcement range. There is no limit on the number of shooting days and operation hours are from 9 a.m. to 7 p.m. The Department has agreed to not change anything for 25 years, which he feels is phenomenal.

The second topic is Lake Pend Oreille and the recovery of the kokanee salmon. Seven years ago, 5,000 salmon spawned in or around the lake, and this year, 1.2 million spawned. He said this is a direct result of predator control on the lake and the bounty that was placed on the lake trout, funded by EPA at \$15 per fish.

Commissioner Corkill concluded his report by saying the U.S. Forest Service is the single, largest landowner in the Panhandle and they are reviewing their forest plan. He stated that in the 60s, 70s, and 80s, when logging and wildlife were at their peaks, he feels that proves that the two can get along. Since 1992, when the Forest Service essentially quit being a purveyor of raw material, the elk herds started going down, plus two severe winters, and then the wolves appeared. The Forest Service is proposing more wilderness areas, closing off roads, and doing things now that they didn't do in the 60s, 70s, and 80s, **Commissioner Corkill** feels it would be a good thing if the State would make a comment on this situation.

Commissioner Doerr presented an update on the Pony Complex Fire. The fire burned 150,000 acres between Black's Creek Road and Highway 20 during the past summer. The area is important as it is winter range for approximately 6,000 deer and 2,000 elk. There are approximately 43,800 acres of sage-grouse important habitat and 75,300 acres of sage-grouse general habitat. The State is actively implementing the Governor's sage-grouse conservation alternative by restoring sage-grouse habitat on state and private lands. The Idaho Department of Fish and Game (IDFG), Idaho Department of Lands (IDL), and federal land management agencies are working cooperatively to restore sage-grouse habitat across jurisdictional boundaries.

Commissioner Barosky said that concluded the reports from the Commissioners.

Chairman Pearce thanked them for their reports and said that he plans to invite them back before the Legislative Session ends to check on their progress.

Chairman Pearce indicated that he would now take testimony from constituents of District 23 regarding elk depredation.

TESTIMONY:

Testifying was **Mike Grimm**, of Cornell Ranches, Mayfield, Idaho. He stated that they are feeding an average of 500 elk on a daily basis and up to 1,500 other times. They are losing a lot of their winter feed resources in addition to thousands of dollars of damage to the ranch infrastructure in fence damage. He is asking the State to reduce the number of animals or compensate for the lost revenue of the feed and damages. A copy of his testimony is on file (see attachment 1).

TESTIMONY:

Jeff Lord, of Lord Ranch, Mayfield, Idaho was next to testify. His family has had the ranch since 1945. The winter of 1948-49 was bitter cold and they had 100 deer in their hay stack and five bull elk in the chopped hay pile. IDFG provided wooden panels to keep the wildlife out of the hay that winter. He stated that his family has a very open and cordial relationship with IDFG, but despite all the efforts, the results have been disappointing. Mr. Lord said they appreciate wildlife on their property, but the question is - how many do they appreciate? Until this issue can be resolved, he and other ranchers in the area are being harmed economically and should be compensated for the winter feed that they provide. A copy of his testimony is on file (see attachment 2).

TESTIMONY: **Steve Damele**, Ditto Creek Ranch, Mayfield, Idaho testified. He stated that the land along Mayfield Road, roughly from the Black's Creek exit north and east back to Mountain Home and south to the freeway is 70-80 percent privately owned by various ranchers who rely on this land for grazing. The growing number of elk and deer are severely reducing forage for their grazing operations, while also destroying fences. There are herds from 100 to 800 going back and forth across the mainly private lands and in total numbers, that number is about 4,000+ elk in the area. The ranchers in the Mayfield area are united in an effort to find long term solutions to this problem. Mr. Damele stated that the solutions are simple. Reduce the numbers in the Mayfield area and pay for pasture, as well as change the statutes and rules so the burden is not solely on the land owner. A copy of his testimony is on file (see attachment 3).

TESTIMONY: Last to testify was **John McCallum**, Iron Horse Ranch, Glens Ferry, Idaho. Mr. McCallum said if the ranchers trade hunts for the feed that they provide the wildlife, the compensation must be fair. His ranch gives up the potential of \$300,000-\$400,000 of claims in exchange for four to eight tags, with strings attached and feels that is very unfair. He thinks Oregon's law would be more fair, plus being able to sell, use, or give away the tags with no restrictions. He provided some changes that would be more reasonable, as well as suggestions that better outlines the issues. A copy of his testimony is on file (see attachment 4).

Due to time restrictions, **Chairman Pearce** said that would conclude today's meeting. He thanked the IDFG Commissioners for their input and also the constituents from District 23.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 3 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

JOINT
**SENATE RESOURCES & ENVIRONMENT COMMITTEE
AND
HOUSE RESOURCES & CONSERVATION COMMITTEE**
1:30 P.M.
WW02
Friday, January 17, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|---------|---|---|
| | Information regarding Grays Lake Real Estate Issues | Clive Strong, Division Chief, Natural Resources, AG Ofc; John Sandy; Mike Sibbetts; and Bill Meyers |

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippetts
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
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Jordan Price, Page

MINUTES
JOINT MEETING
SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Friday, January 17, 2014

TIME: 1:30 P.M.

PLACE: WW02

MEMBERS PRESENT: Chairman Pearce, Senators Siddoway, Brackett, Heider, Tippetts, Stennett, and Lacey
Chairman Denney, Vice Chairman Gibbs, Representatives Wood, Eskridge, Raybould, Andrus, Shepherd, Wood, Boyle, Gestrin, Miller, Pence, Erpelding, and Rubel

ABSENT/ EXCUSED: Vice Chairman Bair, Senator Cameron, Representatives Barrett, Moyle, Vander Woude, and Anderson

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER: **Chairman Pearce** called the Joint Meeting of the Senate Resources and Environment Committee (Committee) and the House Resources and Conservation Committee to order at 1:30 p.m. in the Lincoln Auditorium. He welcomed the Committee members and members of the audience.

Chairman Pearce introduced Mr. Clive Strong, Division Chief, Natural Resources, Attorney General's Office, who coordinated the presentation, "Information Regarding Grays Lake Real Estate Issues".

SPEAKERS: **Mr. Strong** provided a brief background regarding Grays Lake and said that he would provide more information following presentations by John Sandy, Chief of Staff for U.S. Senator James Risch, and two owners, Mike Sibbett and Ernest Lombard.

Mr. Sandy stated that shortly after Senator Risch arrived in the U.S. Senate, it came to his attention that a group of ranchers in SE Idaho had suffered a taking of their property by the U.S. Government; the ranchers believed that the Government had promised to compensate them for the loss of use of their land.

Senator Risch began investigating the situation which has led to many hours of research. As an historical bit of information, when Jim McClure became a U.S. Senator, he ask his regional director in SE Idaho to resolve the Grays Lake dispute. (Mr. McClure served in the U.S. Senate from January 1973 to January 1991.)

Following is an introduction to the history and present status of Grays Lake as presented by Mr. Sandy.

Grays Lake is a large flat spot north of Soda Springs in SE Idaho. Cattle ranchers settled the area in the 1800s. The elevation of the valley floor is over 6,500 feet, so you will understand that it is a great place to spend summers, but only the tough can survive the snow and cold during winters.

Caribou Mountain is on the east side of the valley and spring runoff covered the valley floor which drained to the north during the spring runoff flood. During the summer, the ranchers cut and stacked hay on the valley floor, and that is where they wintered their cows by using horses and sleighs to feed their cows.

In the early 1900s, Barzillia Clark filed on the water from Grays Lake and in 1908 he sold the water to the U.S. for development of the Fort Hall Indian Irrigation Project, which, in 1924, led to a low dam being built on the north end of the valley. This raised the water level and diverted the water to run south instead of north. From then on, pasture and hay ground was flooded for most of the year. The fight then began over who owned the land and who had what rights. The ranchers claimed that Grays Lake was non-navigable and that they, in fact, owned what is now the lake bed. At some point in time the county stopped collecting property taxes.

On November 23, 1931, a special assistant to the U.S. Attorney General wrote: "Actually the question of who gets the hay does not amount to much and when considered in connection with the larger reservoir use and purpose, the hay question becomes rather immaterial. There is a good chance to lose this lawsuit if the United States goes into court and submits the question of its right to use this lake bed."

From the U.S. Record: "On August 15, 1935, the Secretary authorized negotiations with the landowners for the purpose of determining whether the long-standing controversy with the landowners could be settled without resorting to litigation." To further complicate the situation, conversations were taking place with the Feds to establish the Grays Lake National Wildlife Refuge. On August 31, 1955, a memorandum from the Chief Branch of Wildlife Refuges to the Regional Director in Portland stated: "It is established that the United States has no title to the bed of Grays Lake." It goes on to say –"therefore, we must acquire title to the bed of the lake from adjoining landowners, or by other means, since permanent improvement could not be constructed and are not legal."

In 1964, a cooperative agreement was signed with the Bureau of Indian Affairs (BIA) to establish the Grays Lake National Wildlife Refuge. Between 1965 and 1970, in trying to have a storage reservoir, a wildlife refuge, and making the ranchers whole, the agencies agreed to build dikes to contain the water to the center of the lake and allow the ranchers to reclaim use of the rest of the area. The dikes did not work, as among other things, the ground under them was porous and the water just ran under the dikes.

As part of the Fort Hall Indian Rights Settlement, five million dollars was appropriated through BIA and put in an interest-bearing trust account in 1992 to settle the purchases of land at Grays Lake. Moving forward to the summer of 2010, Senator Risch sent several people to tour Grays Lake and to meet with a number of landowners and federal stakeholders. Also, as the story unfolded, it became clear that water was a major player in this ongoing dispute, so they engaged in conversations with Idaho Attorney General, Clive Strong.

With the blessing of the landowners and requests from Senator Risch and the Idaho Attorney General, in 2010, the Feds agreed to contract for a navigability study. The conclusion of the study was that Grays Lake was not navigable.

Through the 100 years of struggle, several opportunities had been presented to settle the Grays Lake dispute, but because of many obstacles, talks had always broken down into a stalemate. During that time, for various reasons, about half of the landowners at Grays Lake had sold their properties to the federal agencies involved. However, there are still families who are trying to maintain their family ranches.

Mr. Sandy stated in December 2010, Senator Risch and Mr. Strong organized a meeting which was held in Salt Lake City. It was attended by all of the Grays Lake landowners or their representatives, about a dozen officials from involved federal agencies, Mr. Strong and himself.

By the end of the day, an outline of an agreement had been reached by all the parties for a path forward to settle the various needs. Also, by day's end, a tentative hopeful time line was agreed upon. Through the years, generations of ranchers have suffered through this ordeal and we are before you today to tell you that the end is near in settling this dispute.

TESTIMONY: **Mr. Ernest Lombard** testified as a landowner about the 100 year battle regarding Grays Lake. He stated that his father was a French immigrant and he herded sheep in the valley in 1921. The valley was formerly called "the valley of the haystacks" because of the many stacks. He stated that it has been a long, hard process, but his family plans to retain ownership and farm their ground.

TESTIMONY: **Mr. Mike Sibbett** is a fourth generation owner of property at Grays Lake. He said that his uncle was hired to police the dam and to protect it, as the authorities thought someone might blow it up. He talked about the hardships the families endured.

SPEAKER: **Mr. Clive Strong** was next to speak. He provided copies of his PowerPoint presentation, "A Pragmatic Solution to A Century Old Question: Who Owns Grays Lake?" (see attachment 1). An overview of the presentation includes:

- Legal Principles
- Title if Navigable
- Title if Non-Navigable
- Legislative and Executive Consent to Federal Acquisition of Lands
- Proposed Solution

Mr. Strong stated that in 2000, ranchers were trying to find a resolution for this issue and the U.S. took the position that it could not settle with the ranchers until the issue of whether the State owned the beds of Grays Lake was resolved. Ownership of the lake bed turned on whether the lake was navigable or non-navigable. **Mr. Strong** said that a body of water is navigable if the water in its natural and ordinary condition was usable by the customary modes of trade or travel on the date of statehood. Evidence of actual use for commerce is not required; the body of water only needs to be susceptible to use in commerce. If a body of water was not navigable at statehood, owners of the adjoining uplands own to the center of the body of water. In the case of a lake the ownership is divided up like a pie. **Mr. Strong** said the rules are fairly simple, but are very hard to apply. If the State owns the lake bed there are restrictions in how submerged lands are managed.

Under the public trust doctrine, the State has the right to regulate, control and utilize navigable waters for the protection of public uses, such as navigation, commerce and fisheries. Public trust resources may only be alienated or impaired through open and visible actions. Whether an alienation or impairment of a public trust resource violates the public trust doctrine is made by the judiciary. Applying those principles to Grays Lake, the Attorney General's Office determined that there was evidence the lake was navigable at statehood. The lake was meandered in 1887 and historical documents showed boats on the lake.

If Grays Lake is non-navigable, then the adjoining landowners own to the center of the lake. Roughly, 66 percent would be owned by the federal government and 33 percent owned by private landowners.

Through research, **Mr. Strong** said that they came across a statute, Idaho Code §36-1806, enacted in 1935 by the Idaho Legislature. It states: FEDERAL MIGRATORY BIRD RESERVATIONS - ACQUISITION CONSENTED TO. "Consent of the state of Idaho is given to the acquisition by the United States by purchase, gift, devise, or lease of such areas of land or water, or of land and water, in the state of Idaho, as the United States may deem necessary for the establishment of migratory bird reservations..." This statute remained in place until 1997 when it was amended to require legislative consent by concurrent resolution.

In 1967, Governor Samuelson issued a document consenting to acquisition of lands around Grays Lake, and in 1972, Governor Andrus gave similar consent to the acquisition of lands.

During the investigation of Grays Lake and the Fort Hall Indian Water Rights Settlement, there was an ongoing conflict that had to be resolved. Based on consultation with legislative leadership and the Land Board, it was decided that it wasn't in the State's interest to spend a great deal of money to try to resolve the title issue. What needed to happen was for the United States to move forward with its original plan to work out a resolution with the private ranchers. By doing that, ranchers would be extracted from the conflict.

There was already an agreement that Grays Lake would be partly used for the Fort Hall Indian Irrigation project as a reservoir. There was also consent already given for the use of Grays Lake as a fish and wildlife refuge.

Mr. Strong stated that the solution is to send a letter to the United States confirming the prior consent of the Legislature in 1935 and the consent by Governor Andrus in 1972 to the United States acquisition of the ranchers interest, if any, in the bed of Grays Lake. Idaho would retain its claim of ownership of the beds and banks of Grays Lake.

Some of the ranchers would like to be bought out; some ranchers would like to continue to ranch or do exchanges. The letter would provide the necessary consent to allow the acquisition of the ranchers interest. This solution provides fundamental fairness, and at the same time, preserves the status quo in terms of the operation of the Fort Hall Indian Irrigation Project.

Mr. Strong told the Committee that if there was no objection from the Legislature, he would send a letter to the United States, on behalf of the state of Idaho, advising that the State has consented to the acquisition of the ranchers' interest and at the same time, advising the United States that the State retains its claim to ownership of beds and banks.

A short discussion followed the presentation.

ADJOURNED: **Chairman Pearce** thanked the presenters, then adjourned the meeting at 2:22 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 20, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|---|---|---------------------|
| Gubernatorial Appointment Consideration | Committee consideration will be given to Brad Corkill who was appointed to the Idaho Fish and Game Commission to serve a term commencing July 1, 2013 and expiring June 30, 2017. | |
| Gubernatorial Appointment Consideration | Committee consideration will be given to Mark Doerr who was appointed to the Idaho Fish and Game Commission to serve a term commencing July 1, 2013 and expiring June 30, 2016. | |
| RS22356 | To provide that Class 7 licenses and tags shall be exempt from certain set-aside funds | Sharon Kiefer, IDFG |
| RS22357 | To require reimbursement to the state relating to the illegal killing, possession or waste of protected wildlife | Sharon Kiefer, IDFG |
| RULES | IDAHO DEPARTMENT OF LANDS | Archie Gray |
| Docket No. 20-0201-1301 | Rules Pertaining to the Idaho Forest Practices Act | |
| | IDAHO DEPARTMENT OF PARK AND RECREATION | Tammy Kolsky |
| Docket No. 26-0120-1301 | Rules Governing the Administration of Park and Recreation Areas and Facilities | |
| Docket No. 26-0120-1302 | Rules Governing the Administration of Park and Recreation Areas and Facilities | |
| | OUTFITTERS AND GUIDES LICENSING BOARD | Jake Howard |
| Docket No. 25-0101-1201 | Rules of the Outfitters and Guides Licensing Board | |

COMMITTEE MEMBERS

| | |
|--------------------|--------------|
| Chairman Pearce | Sen Heider |
| Vice Chairman Bair | Sen Tippetts |
| Sen Cameron | Sen Stennett |
| Sen Siddoway | Sen Lacey |
| Sen Brackett | |

COMMITTEE SECRETARY

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Jordan Price, Page

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 20, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett, and Lacey

ABSENT/EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER: **Chairman Pearce** called the Senate Resources and Environment Committee (Committee) meeting to order at 1:30 p.m.

APPROVAL OF MINUTES: **Senator Brackett** made the motion that the minutes of January 15, 2014 be approved as written. The motion was seconded by **Vice Chairman Bair**. The motion passed unanimously by **voice vote**.

GUBERNATORIAL APPOINTMENT CONSIDERATION: Committee consideration was given to Brad Corkill who was appointed to the Idaho Fish and Game Commission to serve a term commencing July 1, 2013 and expiring June 30, 2017.

MOTION: **Senator Siddoway** made the motion to "do confirm" the appointment of Brad Corkill to the Idaho Fish and Game Commission. The motion was seconded by **Senator Cameron**. The motion passed unanimously by **voice vote**. Senator Vick will be the sponsor of Mr. Corkill.

MOTION: **Senator Brackett** made the motion to "do confirm" the appointment of Mark Doerr to the Idaho Fish and Game Commission. The motion was seconded by **Senator Heider**. The motion passed unanimously by **voice vote**. Senator Heider will be the sponsor of Mr. Doerr.

Senator Tippetts said that he wished to make a statement regarding the two nominees. He feels they are exceptional candidates and will do a very good job for the Commission and the people of Idaho. **Chairman Pearce** said that he shared the same feelings.

Chairman Pearce called on Ms. Sharon Kiefer, Deputy Director, Department of Idaho Fish and Game, to present RS 22356.

RS 22356: **Ms. Kiefer** said the certain license revenue accrued to the dedicated fish and game fund is set aside according to provisions of Idaho Code §36-111, which established a set-aside account in the dedicated fish and game fund. This bill will remove the set-aside requirement for revenue from duplicate licenses and tags, because the set-aside provisions are met at the time of the original license and tag purchase. This bill also amends the amount of revenue set aside from the disabled combination license, a reduced fee license, to be comparable with the proportion of revenue set aside from the adult resident combination license. The proportion of revenue that is set aside from the disabled combination license would decrease from \$2.00, which is 61 percent of the license cost, to \$0.25, which is 8 percent of the license cost, and is comparable with the set-aside proportion of the adult resident combination license. This change provides added flexibility to meet fish and game program needs that are broader than the narrow

scope of the set aside. The set-aside revenue can only be used for access to big game, waterfowl, or upland bird habitats as well as their acquisition or restoration whereas revenue in the dedicated fish and game fund, that is not set aside, can be used to fund all license programs, including enforcement and fishery programs.

The bill also makes a technical correction and there is no fiscal effect to the State General Fund.

MOTION: **Vice Chairman Bair** made the motion to print **RS 22356**. The motion was seconded by **Senator Heider**. **Senator Siddoway** said that he will support the printing of the RS, but that might be all that he can do at this time. The motion passed unanimously by **voice vote**.

RS 22357: **Ms. Kiefer** stated that this bill would expand the provision requiring reimbursement to the state for illegally taken wildlife. The minimum reimbursable penalty in Idaho Code §36-1404 would include all wildlife that has been classified as protected by the Fish and Game Commission. This bill does not expand the reimbursable penalty to unprotected wildlife or wildlife classified in Section 36-201 as predatory wildlife. The bill also technically corrects Chinook salmon to "wild" Chinook salmon for reimbursable penalty, similar to wild steelhead. There will be no effect to the State General Fund.

MOTION: **Senator Cameron** made the motion to print **RS 22357**. The motion was seconded by **Senator Heider**. The motion passed unanimously by **voice vote**.

PASSED THE GAVEL: Chairman Pearce passed the gavel to Vice Chairman Bair so that he may conduct the meeting for the rules. The first rule to be heard is from the Outfitters and Guides Licensing Board.

DOCKET NO. 25-0101-1201: **Mr. Jake Howard**, Executive Director of the Outfitters and Guides Licensing Board (OGLB), presented this rule, Rules of the Outfitters and Guides Licensing Board. The purpose of this rulemaking is to clarify and enhance the ability of private landowners to allow public access to their private lands. In doing so, they also intend to clarify outfitted use and license requirements when outfitted facilities and services are provided by the landowner or someone authorized by the landowner to do so. **Mr. Howard** stated that they had received many calls and emails criticizing this rule, so OGLB made the decision to withdraw it.

MOTION: **Senator Siddoway** made the motion to reject **Docket No. 25-0101-1201**. The motion was seconded by **Senator Cameron**. The motion passed unanimously by **voice vote**.

DOCKET NO. 20-0201-1301: The next rule is from the Idaho Department of Lands (IDL) with Rules Pertaining to the Idaho Forest Practices Act. **Mr. David Groeschl**, State Forester and Deputy Director of Forestry and Fire for IDL, made the presentation.

The Forest Practices Act regulates harvest operations and ensures the sustainability of Idaho's forest resources. The most important change in this docket is the change to the streamside tree retention or "Shade Rule".

Retaining trees near Class 1 streams is very important in order to provide shade which keeps streams cool. Trees also prevent sediment from reaching streams and provide important fish habitat and structure when they fall into the stream. Every four years, the Idaho Department of Environmental Quality (IDEQ) conducts compliance audits of the Forest Practices Act across all forest ownerships in Idaho. IDEQ identified three concerns regarding the current Shade Rule. The nine member Forest Practices Act Advisory Committee (FPAAC) were given these concerns and they worked collaboratively with scientists and other interested parties over the last ten years to develop a science-based Shade Rule with the following three goals in mind:

1. A rule that is based on best available science and actual Idaho riparian forest data;
2. A rule that addresses shade and large wood recruitment goals; and
3. A rule that is implementable and understandable and balances the stewardship, operation and economic interests of all parties.

The pending Shade Rule allows forest landowners to select from two options which offers forest landowners greater flexibility in managing their lands. FPAAC and IDL believe these proposed rule changes reflect a careful balance and integration of all the interests represented and the best available science based on Idaho specific data.

A copy of Mr. Groeschl's testimony and handouts are on file (see attachments 1, 2, and 3).

TESTIMONY: **Mr. Terry Cundy**, Potlatch, Idaho, testified in support of this rule and thanked the staff for their scientific approach.

TESTIMONY: **Mr. Jonathan Oppenheimer**, Idaho Conservation League, feels this rule falls short of its purpose.

MOTION: **Senator Tippets** made the motion to accept **Docket No. 20-0201-1301**. The motion was seconded by **Senator Siddoway**. The motion passed unanimously by **voice vote**.

DOCKET NO. 26-0120-1301: **Ms. Tammy Kolsky**, Idaho Department of Park and Recreation presented **Docket No. 26-0120-1301**, Rules Governing the Administration of Park and Recreation Areas and Facilities.

The rule changes requested are to increase the IDAPA approved Fee Caps by \$10 per night for all Idaho state park campsites and by \$50 per night for Idaho state park camper cabins and yurts. The adjustments are necessary in order for Parks and Recreation to apply the following fee changes:

1. Increase the fee charged for all serviced campsite types by \$2 per night for all camping customers;
2. Increase the fee charged for all campsites by an additional \$3 per night for all non-resident camping customers;
3. Increase the fee charged for all camper cabins and yurts by an additional \$5 per night for all non-resident camping customers; and
4. Increase the fee charged for all other overnight facilities (deluxe cabins, cottages, houses, group yurts, lodges, and lodge rooms) and group campsites by an additional 10 percent per night for all non-resident camping customers.

The fiscal impact assumes no decrease in occupancy and has been calculated against averaged site usage using the past three years' occupancy. Potential revenue is \$347,149. **Ms. Kolsky** was asked when the last fee increase was implemented and she replied that it was in 2007. She was also asked about reservations and her reply was that reservations are taken nine months in advance and at this time most of the parks are full.

MOTION: **Senator Lacey** made the motion to accept **Docket No. 26-0120-1301**. The motion was seconded by **Senator Siddoway**. The motion passed unanimously by **voice vote**.

DOCKET NO. 26-0120-1302 **Ms. Kolsky** also presented this rule, **Docket No. 26-0120-1302**. This rule change will increase the IDAPA fee caps for the Winter Access Program's existing pass as follows: Daily per person pass is currently \$4.00 and will increase to \$6.00; family season pass is currently \$35.00 and will increase to \$100.00. This rule change will establish two new Winter Access Program pass types and set IDAPA fee caps for them to be as follows: individual season pass - \$50.00 and couples season pass - \$75.00. The total projected positive fiscal impact is \$29,636.00.

It was found that in the fee table on page 11 (first line) of the Pending Fee Rules booklet, it states "per person per season", but the intent was "per person per day". On the second line, it states "Daily Family Pass", but should be "Season Family Pass". It is accurately stated under 01. Winter Access Program Fee - Daily Pass and 02. Winter Access Program Fee - Season Pass as noted by Senator Cameron. **Senator Brackett** stated that Ms. Kolsky gave an accurate report and he feels the errors are typographical.

MOTION: **Senator Siddoway** made the motion to accept **Docket No. 26-0120-1302**, except for the word "season" on the first line of the fee table and except for the word "daily" on the second line of the fee table, page 11 of the Pending Fee Rules booklet. The motion was seconded by **Senator Pearce**. The motion passed unanimously by **voice vote**.

PASSED THE GAVEL: Vice Chairman Bair passed the gavel back to Chairman Pearce as the rules for this meeting have all been heard.

ADJOURNED: **Chairman Pearce** thanked the Vice Chairman, then adjourned the meeting at 2:50 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 22, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|--|--|--------------------------------------|
| RS22526 | A memorial to the seafood and fish producing states to acquire sufficient funding for effectual and maintained domestic marketing of American seafood. | Senator Heider |
| Wolves | Idaho Department Fish and Game Wolf Update | Jeff Gould, Wildlife Bureau Chief |
| RULES | IDAHO FISH AND GAME COMMISSION | |
| Docket No. 13-0108-1302 | Rules Governing the Taking of Big Game Animals in the State of Idaho | Sharon Kiefer, Deputy Director, IDFG |
| Docket No. 13-0108-1303 | Rules Governing the Taking of Big Game Animals in the State of Idaho | Sharon Kiefer, Deputy Director, IDFG |
| Docket No. 13-0109-1301 | Rules Governing the Taking of Game Birds in the State of Idaho | Sharon Kiefer, Deputy Director, IDFG |
| Docket No. 13-0111-1301 | Rules Governing Fish | Sharon Kiefer, Deputy Director, IDFG |
| Docket No. 13-0111-1302 | Rules Governing Fish | Sharon Kiefer, Deputy Director, IDFG |

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippets
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

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Page - Jordan Price

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 22, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER: **Chairman Pearce** called the Senate Resources and Environment Committee (Committee) meeting to order at 1:30 p.m. He then asked Senator Heider to present his RS.

RS 22526: **Senator Heider** said that as part of the Pacific Fisheries Legislative Task Force, Idaho plays a role in the production and life cycle of Pacific salmon. The seafood and fish producing states were asked to send a memorial to Congress to ask them to acquire sufficient funding for effectual and maintained domestic marketing of American seafood. He noted that Idaho is the last state to do so and asked for support of this Senate Joint Memorial.

MOTION: **Senator Siddoway** made the motion to send **RS 22526** to print. The motion was seconded by **Vice Chairman Bair**. During the discussion, a question was raised about the source of funding and also if the industry contributes to the funding. **Senator Heider** said that he would research the questions and be prepared to answer them when the Memorial is presented on the Senate Floor. The motion passed unanimously by **voice vote**.
Chairman Pearce welcomed Mr. Jeff Gould, Wildlife Bureau Chief, Idaho Department of Fish and Game (IDFG), who gave a presentation on the "Idaho Wolf Management Update".

SPEAKER: **Mr. Gould** said the Idaho Wolf Management Plan is guided by the 2002 Idaho Wolf Conservation Plan which was developed by the Idaho Legislative Wolf Oversight Committee and approved by the Idaho Legislature, as well as the U.S. Fish and Wildlife Service in 2002. This plan is the foundation of the delisting rule in 2009 that transferred wolf management from the federal government to the state of Idaho. **Mr. Gould** said that he would cover how the State is implementing the conservation plan in terms of wolf monitoring, depredation control, hunting and trapping, agency control efforts, and the costs associated with these management activities.

In general, IDFG collects and evaluates harvest information and population information on species that are hunted and trapped. In the case of the wolf, the purpose of the post delisting monitoring is to verify that the recovered species remains secure from the risk of extinction after they no longer have protection.

Mr. Gould stated that he has provided a wolf management update in the form of a graph (see attachment 1). Figure 1 shows the estimated year-end wolf population in Idaho from 1995-2012. Figure 2 is the number of confirmed packs and breeding pairs (a pack is at least 2 adults and 2 surviving pups) at year-end, 1995-2012. On the reverse side of the attachment, the information is about confirmed wolf depredations and mortalities in Idaho from 2003 to December 31, 2013.

With regard to wolf monitoring, in 2002, it was reported there was a minimum of 683 wolves from 117 packs. That represented an 11 percent decline of the wolf population during that year. Thirty-five packs qualified as breeding pairs, and due to smaller litter size, lack of successful reproduction, and removal of breeding pack members are other factors for the decline. The final count for 2013 will be provided in April, after an in-depth process. Monitoring wolves has become very challenging and expensive. Radio collars are lost through hunting and trapping, as well as wildlife control actions. Currently, there are 70 animals with radio collars. Due to the cost and human risk, **Mr. Gould** said that they need to get away from this type of monitoring and will probably monitor wolves like they do bears and lions (cameras and observation).

Mr. Gould said that they are keenly aware of the issue of the wolf impact on livestock. Control authorizations continue to be administered by the regional staff, working directly with Wildlife Services. Wildlife Services removed 74 wolves in response to 78 depredations that were fielded from livestock operators. Confirmed losses amounted to 40 cattle, 404 sheep, and 5 dogs that were killed by wolves in 2013. In addition to working with Wildlife Services, the Idaho County Sheriff's Department, their staff, and some landowners were authorized to address a wolf control measure in Clearwater County where another three wolves were removed during that incident.

The heart of management actions is the hunting and trapping programs, with the first hunting season in 2009/2010. Hunting was allowed in 11 management zones across the State, with each zone having a harvest limit, as well as a statewide harvest limit. Two years later, there were only harvest limits in 6 out of the 13 management zones, so they did not feel harvest limits had to be placed across the board. The statewide harvest limit was dropped, as well. The 2011/2012 hunting season was from August 30 to March 31, with the exception of two areas which were extended. Those areas were the Lolo and Selway where it was difficult to remove some wolves. Trapping, during that season, was allowed in five northern zones where harvest the prior year was not adequate. Hunters were allowed to purchase two tags and trappers could purchase three. That year, 379 wolves were taken and trappers accounted for 33 percent of the take.

Regarding the current season, additional expansion of hunting and trapping seasons were adopted, including year round hunting on private property and the Pandhandle region, new trapping seasons were added in 15 game management units across 4 wolf zones, and hunters could purchase 5 wolf tags in 7 of the 13 zones and trappers could purchase 5 trapping tags in 6 of the 9 zones. Limits remained in the other zones. **Mr. Gould** stated that they are 25 percent ahead of where they were last year in regards to harvest. The State now requires wolf trappers to take a mandatory training class before they are allowed to trap wolves and it seems that it has served Idaho well. About 2,000 trappers have taken the class and have learned the trapping technique. After one year of this implementation, Montana copied Idaho's program.

In 2013, IDFG contracted several trappers to continue trapping after the season closed to address some predation on elk in north central Idaho, specifically in the Lolo, Selway, and parts of the Panhandle. Seven wolves were taken. More recently, IDFG hired a trapper to target wolves in the Middle Fork elk zone. Seven wolves were taken there during the month of December.

Cost of wolf management and the impacts to local economy have exceeded what people forecasted going into this federal financial support. Monitoring has declined over the past two years and will cease completely in 2016. Total wolf management expenditures exceeded \$1.4 million in FY 2013, slightly higher than the previous year. Sources of funds to pay for those expenditures include: \$650,000 from the federal appropriation (money that will be phased out); \$450,000 was funded through license sales; and \$400,000 came from the excise tax on ammunition and firearms.

Mr. Gould said that looking into the future, they will remain consistent with the 2002 conservation plan during their five year recovery period, which goes through May, 2016. The wolves were delisted in 2009, then relisted, then delisted again. Management will continue towards the 150 total wolves or 15 packs; will manage for a balance between predator and prey species; and more aggressive harvest and control efforts will be applied where conflicts exist. Seasons and bag limits need to be simplified and preliminary proposals are being submitted for the next big game season-setting process, which the Commission will act on in March.

Mr. Gould stated that the facts presented were biological management facts and regarding social facts - once the wolf was delisted, some of the social tension left. Public sentiment is highly polarized and emotionally charged regarding wolf management, in general. That concluded the presentation.

**PASSED THE
GAVEL:**

Chairman Pearce thanked Mr. Gould, then passed the gavel to Vice Chairman Bair to conduct the meeting for the hearing of some rules.

RULES:

Vice Chairman Bair called on Ms. Sharon Kiefer, Deputy Director, IDFG, to present the rules for the Idaho Fish and Game Commission.

**DOCKET NO.
13-0108-1302:**

This rule governs the taking of big game animals in the state of Idaho. **Ms. Kiefer** said that this rule revises the Nonresident Junior Mentored Tag to delete the requirement that the accompanying adult have a tag valid in the same area. **Ms. Kiefer** indicated that this recommendation was brought forth by some sportsmen.

MOTION:

Senator Cameron made the motion to accept **Docket No. 13-0108-1302**. The motion was seconded by **Chairman Pearce**. The motion passed by unanimous **voice vote**.

**DOCKET NO.
13-0108-1303:**

This rule also governs the taking of big game animals in the state of Idaho. **Ms. Kiefer** said that in 2012, H457 allowed rules for controlled hunt tag designation to a minor child or grandchild. This rule makes a minor wording change to more closely align statute and rule language for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

MOTION:

Senator Tippetts made the motion to accept **Docket No. 13-0108-1303**. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**.

**DOCKET NO.
13-0109-1301:**

This rule governs the taking of game birds in the state of Idaho. **Ms. Kiefer** said that in 2012, H 457 allowed rules for controlled hunt tag designation to a minor child or grandchild. This rule makes a minor wording change to more closely align statute and rule language for designating a controlled hunt tag from a parent or grandparent to his or her minor child or grandchild.

MOTION:

Senator Cameron made the motion to accept **Docket No. 13-0109-1301**. The motion was seconded by **Chairman Pearce**. The motion passed by unanimous **voice vote**.

DOCKET NO. 13-0111-1301: This rule governs fish. **Ms. Kiefer** said that this rule defines the terms "single-point hook" and "watercraft" which have been used for many years in fish season proclamations.

The term "single-point hook" is used to limit fishing tackle to prevent snagging. In certain situations where fish are large, visible, and congregated, hooks with more than one point create a higher probability that anglers could intentionally or unintentionally snag a fish. This can lead to illegal harvest or unintended mortality. This is of particular concern in fisheries for salmon and steelhead in tributary river systems.

The term "watercraft" is used to limit angler conflict and address safety concerns. In some reservoirs and large river fisheries with concentrated angler use, there can be conflicts and/or unsafe conditions for bank/wading anglers created by wake from watercraft. Watercraft anchored in desired fishing areas can also monopolize preferred fishing locations to the point that bank/wading anglers have no opportunity to fish. These events are rare but occur in waters with high-use salmon and steelhead fisheries.

MOTION: **Senator Siddoway** made the motion to accept **Docket No. 13-0111-1301**. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**.

DOCKET NO. 13-0111-1302: This rule governs fish. **Ms. Kiefer** said that this rule is intended to minimize the risk of injury to sturgeon when landed by anglers. Only 'catch-and-release' angling is allowed in Idaho for sturgeon. Keeping the sturgeon in the water allows the natural buoyancy of the water to support internal organs of larger fish. Sturgeon have a cartilaginous skeleton which is not as supportive as a bony skeleton found in most fish species. The rule was in IDAPA through 2008 and was inadvertently removed during a chapter restructure, but the rule was not rescinded by the Commission.

MOTION: **Senator Cameron** made the motion to accept **Docket No. 13-0111-1302**. The motion was seconded by **Senator Siddoway**. The motion passed by unanimous **voice vote**.

PASSED THE GAVEL: **Vice Chairman Bair** said that concluded the hearings on the rules and thanked the Committee for their participation, as well as Ms. Kiefer. He then passed the gavel back to Chairman Pearce.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:40 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 27, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|--------------------------------|---|--|
| <u>RS22661</u> | A concurrent resolution rejecting a rule of the Outfitters and Guides Licensing Board | Vice Chairman Bair |
| <u>RS22561</u> | Clarifies conveyances of mineral rights | Senator Tippetts |
| | Presentation : "Sockeye Salmon Recovery Program" | Ed Schriever, Chief of Fisheries, IDFG |
| <u>S1220</u> | F&G, reimbursement for illegal killing | Sharon Kiefer, Deputy Director, IDFG |

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippetts
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
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Jordan Price - Page

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 27, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: Senator Brackett

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m. He welcomed the members of the audience to the meeting. He then asked Vice Chairman Bair to present his RS.

RS 22661: **Vice Chairman Bair** said that **RS 22661** is a Senate Concurrent Resolution rejecting Docket No. 25-0101-1201 of the Outfitters and Guides Licensing Board. There was no discussion regarding this RS as the docket had been discussed at length in a previous meeting. **Chairman Pearce** called for a motion.

MOTION: **Vice Chairman Bair** made the motion to send **RS 22661** to print. The motion was seconded by **Senator Cameron**. The motion passed by unanimous **voice vote**.

RS 22561: **Senator Tippetts** presented **RS 22561**. He said this legislation clarifies that conveyances of mineral rights include rights to oil and gas, unless such rights are specifically reserved in the conveyance, or unless the oil and gas rights were previously conveyed. There was no discussion regarding this RS as the intent and purpose was clearly stated. **Chairman Pearce** called for a motion.

MOTION: **Senator Siddoway** made the motion to send **RS 22561** to print. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**. **Chairman Pearce** welcomed and introduced Mr. Ed Schriever, Fisheries Bureau Chief, Idaho Department of Fish and Game. Mr. Schriever's presentation was: "Snake River Sockeye Salmon Program Review: Transitioning From Conservation To Recovery".

SPEAKER: **Mr. Schriever** provided some background about the program (how we got to where we are today); reviewed the phased approach to implementation; and finished the presentation with some photos of the new hatchery.

The project is located at the headwaters of the Salmon River in Idaho - some 900 miles from the Pacific Ocean. The Snake River sockeye are unique as they travel a greater distance to spawn than any other population of sockeye in the world. They also travel to a higher elevation to spawn than any other population, and they are currently the most southerly spawning population in existence. The habitat is relatively pristine in the three lakes of recovery.

Redfish Lake is the largest of the three lakes and has the most potential of all lakes to contribute to recovery. When the captive broodstock program was initiated in 1991, only this lake supported a remnant run of anadromous sockeye salmon. Alturas Lake is the second largest lake that historically supported anadromous sockeye and Pettit Lake is the smallest. Hatcheries are located at Eagle, near Boise; Sawtooth Hatchery, near Redfish Lake; and Springfield Hatchery, near American Falls.

Mr. Schriever stated that work on the program has been cooperative in nature from the outset of activities in 1991 and involves Idaho Department of Fish and Game (IDFG); National Marine Fisheries Service (NMFS); and the Shoshone-Bannock Tribes (SBT). Funding is provided by Bonneville Power Administration (BPA) through the Northwest Power and Conservation Council (NPCC).

The trend of population abundance is measured at Snake River dams, and prior to 1991, the return in the 1960s was about 1,000. This number dropped off to 200 or fewer adults in the late 1970s and 1980s. In 1989, four adult sockeye were counted crossing Lower Granite Dam. This number was down to zero in 1990. As a result of this downward trend, in 1990, the SBT petitioned NMFS to protect the Snake River sockeye salmon under the Endangered Species Act (ESA). Federal protection was found to be warranted and the Redfish Lake population was listed as endangered in 1991. This was the first ESA listing of a Pacific salmon. In the 20+ years since listing, many actions have occurred to maintain and begin rebuilding the remnant Redfish Lake population.

In Phase 1, the Captive Broodstock Phase, conservation protocols were established early on to protect the remnant population including:

- The development of redundant broodstocks at IDFG and NMFS facilities to guard against a catastrophic loss at any one location;
- The development of annual spawning plans based on pedigree or genetic identity designed to maximize the retention of genetic variability and to minimize the risk of spawning related individuals;
- The protocol to screen 100 percent of all fish that die in the program for disease agents; and
- The creation of a multi-agency technical team to review the results, guide activities, and to address critical uncertainties. This team still meets regularly today.

Mr. Schriever stated that the Captive Broodstock Program works as follows: Each year, the IDFG and NMFS staff "rebuild" the broodstock by spawning adults that mature in captivity along with returning anadromous adults when available and appropriate. This creates the next generation of sockeye that will ultimately mature in the hatchery - the captive broodstock. At the same time, annual spawning events produced more eggs than were needed to just perpetuate the captive broodstock. These eggs were allocated to different reintroduction strategies, and evaluated experimentally to identify the release option with the most potential to return adults to Idaho.

Multiple hatcheries are involved in the current effort to maintain the captive broodstock, with the Eagle hatchery being the primary location. Two NMFS broodstock facilities are used and are part of the NMFS Science Center in Montlake, Washington. The Manchester Research Station uses pumped, filtered, UV treated saltwater from the Puget Sound. Broodstock adults raised at the saltwater facility are transferred to the Burly Creek facility for final maturation in fresh water.

Program managers have been evaluating the ability of different reintroduction strategies to return anadromous adult sockeye salmon to Idaho. Strategies included the release of full-term captive adults or returning anadromous adults to Redfish Lake for natural spawning. The planting of eyed-eggs in egg boxes were released in Pettit Lake, and pre-smolts were released in Redfish, Alturas, and Pettit lakes. Also, full-term smolts were released in the Main Salmon River and in Redfish Lake Creek, the outlet of Redfish Lake.

Mr. Schriever said that arrangements were made with the Sawtooth Fish Hatchery and the Oxbow Hatchery to provide space to rear experimental groups of pre-smolts and smolts. Both facilities were constructed and funded to address other mitigation mandates. The Sawtooth Hatchery currently rears just smolts. Annually, up to 100,000 full-term sockeye salmon smolts are reared at this facility. The Oxbow Hatchery is an Oregon Department of Fish and Wildlife operated hatchery just upstream of Bonneville Dam. This facility produces up to 100,000 sockeye salmon smolts. Smolt releases from both facilities combined average about 180,000 per year.

The program has rebuilt the broodstock annually and has produced about 3.8 million eggs and fish that have been allocated to the release strategies as indicated earlier. About 70 percent of all effort has gone into the production and release of eyed-eggs and pre-smolts, the two release strategies that require the least amount of hatchery rearing space. Smolt releases represent about 30 percent of the total.

For completed brood years of 2004, 2005, and 2006 (meaning the return of ages three, four, and five adults from these three spawning years), over 85 percent of all adult returns were generated from smolt releases. Pre-smolt releases accounted for only three percent of all returns. Results from eye-egg releases produced similar results. The surprising finding was that 11 percent of all returns were generated from natural production in Redfish Lake associated with the strategy to release adults for natural spawning.

Since the first hatchery-produced anadromous sockeye salmon returned to Idaho in 1999, over 7,678 have been counted passing Lower Granite Dam. Of these, over 4,800 (63 percent) have made the final 400 mile leg of the journey back to the Sawtooth Valley in Idaho. In comparison, only 79 total wild sockeye salmon adults were identified passing Lower Granite Dam in the first 8 years of the program operated (1991-1998). Since 1999, over 720 natural-origin adults have returned to Idaho - approximately 15 percent of the total number of returns.

Mr. Schriever said putting the past 20+ years of the Phase 1 captive broodstock effort in perspective, the program managers have developed conservation aquaculture techniques to raise sockeye full-term to maturation in the hatchery (with high survival). They have effectively maintained population genetic diversity and conserved the adaptive potential of the population, and implemented a comprehensive evaluation that identified releasing smolts as the most effective reintroduction strategy.

Phase 2 is the re-colonization phase. The objective is to produce large numbers of smolts to increase the number of returning anadromous adults. Anadromous adults will be used to re-colonize the Stanley Basin Lakes and to replace captive adults in hatchery spawning designs. The annual production of smolts will increase 5 fold, from 200,000 to 1 million. To maintain genetic continuity between hatchery and natural spawning components, ten percent of the hatchery broodstock will be comprised of natural-origin anadromous adults (integration).

The expected outcomes of Phase 2 are the following: 1) Increase the number of anadromous adults naturally spawning in the habitat; 2) Transition to spawning only anadromous returns in the hatchery (captive broodstock becomes a safety net); and 3) Generate average returns of 5,000 hatchery-origin anadromous adults and 750 natural-origin anadromous adults annually.

Phase 3 will begin when: 1) The five year average return equals 1,000 anadromous adults - ramp down NBMFS captive program; 2) Five year average return equals 2,150 anadromous adults - ramp down IDFG captive program; and 3) Five year average return of natural-origin anadromous adults equals 750. The earliest this could happen is 2021, according to **Mr. Schriever**. Also during Phase 3, local adaptation will begin to control the ratio of hatchery and natural spawners in the habitat to allow natural selection to drive genetic adaptation. The smolt production required will be 400,000 to 600,000. Assumptions are that local adaptation and integrated broodstock management can effectively increase the natural population to sustainable levels that effectively address recovery objectives.

The expected Phase 3 outcomes are:

- Average natural-origin adult returns to equal 1,122;
- Average hatchery-origin adult returns to equal 5,384;
- NMFS minimum abundance threshold for Redfish Lake to equal 1,000; and
- Address Pettit and Alturas lake objectives.

That completed Mr. Schriever's presentation.

TESTIMONY: **Mr. Larry Thorngren**, a wildlife photographer from Donnelly, Idaho, said that he wished to compliment IDFG for what they are doing with the recovery program. He stated that he remembers when salmon were plentiful in Idaho streams and there was a fish cannery in McCall.

Chairman Pearce said the Committee would now hear a bill, presented by Ms. Sharon Kiefer.

S 1220: **Ms. Kiefer**, Deputy Director, IDFG, said that Idaho Code clearly states as the policy of the state of Idaho that all wild animals, wild birds, and fish, within the State are the property of the state of Idaho. In recognition of this, Idaho Code §36-1404 has long required reimbursable penalty to the State for the illegal killing, possession or waste of many species, but not all species of protected wildlife. S1220 would review current law so that the illegal take of any of the wildlife classified by the Fish and Game Commission with protected status in IDAPA 13.01.06 carries the minimum reimbursable penalty unless otherwise defined in Idaho Code §36-1404. This change enhances the regulatory structure important to uphold Idaho's sovereign management of its wildlife.

There are game and nongame species of wildlife for which illegal take would carry a \$50.00 reimbursable penalty with passage of this bill. A few examples: Upland game animals - mountain cottontail, pygmy rabbit, and snowshoe hare; Protected nongame species, such as - American pika, North American wolverine, Northern flying squirrel, bald eagle, Peregrine falcon, and Bear Lake sculpin.

Many of these species are the subject of considerable conservation effort to preclude challenges to list them pursuant to the federal Endangered Species Act and to retain them under state management. Animals classified as predatory wildlife or unprotected wildlife carry no reimbursable penalty; this bill does not change this.

Ms. Kiefer said the bill also amends the reimbursable penalty for Chinook salmon of \$250 to only apply to the illegal taking of wild Chinook salmon, analogous to the existing penalty for wild steelhead. There is no other change related to fines or the apportionment of fines. As the fiscal note reflects, this is an issue of policy, not of revenue for the department.

MOTION: After a brief discussion, **Senator Lacey** made the motion to send **S 1220** to the floor with a "do pass" recommendation. The motion was seconded by **Senator Stennett**. The motion passed by unanimous **voice vote**. Senator Lacey will be the floor sponsor of this bill.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:25 p.m.

Senator Pearce

Chair

Juanita Budell

Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
AND
HOUSE RESOURCES & CONSERVATION COMMITTEE
1:30 P.M.
Lincoln Auditorium
Wednesday, January 29, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|--------------------------------|--|--|
| | Sage-Grouse Presentation - "Habitat Use and Reproductive Success of Greater Sage-Grouse in Bighorn Basin, Wyoming" | Jim Pehringer , District Supervisor, Wildlife Services, Cody, Wyoming; and Jimmy Taylor , Research Wildlife Biologist and Project Leader, National Wildlife Research Center, Corvallis, Oregon |
| | Following the Joint Meeting, the Senate Resources Committee will convene in WW55 to conduct committee business. | |
| Approval of Minutes: | January 17 January 20 January 22 | Senator Tippetts Senator Siddoway Vice Chairman Bair |
| Rule | Correction of rejection of two words: Docket No. 26-0120-1302, Idaho Department of Park and Recreation | Vice Chairman Bair |
| <u>RS22601</u> | The Idaho Public Utilities Commission needs the authority to have public utilities collect voluntary donations from ratepayers for a Solar Photovoltaic Incentive Fund | Senator Thayn |

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippetts
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

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Jordan Price, Page

MINUTES
JOINT MEETING
SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Wednesday, January 29, 2014

TIME: 1:30 P.M.

PLACE: Lincoln Auditorium

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippets, Stennett and Lacey

Chairman Denney, Vice Chairman Gibbs, Representatives Wood, Barrett, Eskridge, Raybould, Andrus, Shepherd, Wood, Boyle, Vander Woude, Gestrin, Miller, Pence, Erpelding and Rubel

ABSENT/ EXCUSED: Representatives Moyle and Anderson

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CALL TO ORDER: **Chairman Pearce** called the joint meeting of the Senate Resources and Environment Committee (Committee) and the House Resources and Conservation Committee (Committee) to order at 1:35 p.m.

ANNOUNCEMENT: **Chairman Pearce** announced that following this joint meeting, the Senate Committee would reconvene, after a five minute recess, in WW55 to conduct some Committee business.

WELCOME: **Chairman Pearce** welcomed Chairman Denney and the House Committee, as well as the members of the audience and guest speakers. He then asked Senator Siddoway to provide some background information regarding today's presentation and to also introduce the speakers.

Senator Siddoway welcomed and introduced Jim Pehringer, District Supervisor of Wildlife Services in Cody, Wyoming and Dr. Jimmy Taylor, Research Wildlife Biologist and Project Leader of the National Wildlife Research Center at Corvallis, Oregon, to the meeting.

Senator Siddoway said that at a tri-state sheepherders meeting last November in Jackson Hole, Wyoming, he saw their presentation regarding sage-grouse and felt it was something that policy makers in Idaho should see. He invited them to present their program to the joint Committees.

SPEAKER: **Dr. Taylor** said he would talk about the methodology used in the research study, rather than statistics. This study was conducted in the Bighorn Basin in Wyoming and is referred to as the Bighorn Basin Sage-Grouse Predation Project (SGPP). He stated that it is one of 25 ongoing research studies related to sage-grouse in the state of Wyoming. In 2010, a proposed project to investigate predation was turned down by the Wyoming Game and Fish, but was later supported by the Conservation Districts of Area III at their annual meeting. In 2011, the Bighorn Basin Sage-Grouse steering committee was formed.

At first, the study of predation was focused on coyotes, but later it turned to ravens. Ms. Julie Young, Utah State University, and grad student Ms. Beth Orning, began research in 2011. **Dr. Taylor** said he joined the study last year (2013) and was collecting similar data like Ms. Young and Ms. Orning did on coyotes, but now he is more focused on ravens as a predator.

Cooperators of this project are very diverse. They are as follows:

- Bighorn Basin Conservation Districts
- Bighorn Basin Predator Management Districts
- APHIS/USDA/Wildlife Services
- Marathon Oil Company
- Fidelity Oil Company
- Animal Damage Management Board
- V Ranch
- Belden Ranch
- Park County Farm Bureau
- Wyoming Game and Fish Department
- Bureau of Land Management

Dr. Taylor listed the four goals of SGPP. They are: to understand sage-grouse/predator relationships; to determine if predator control is effective; to determine what levels of control are effective; and determine if those levels of control are feasible. The objectives of SGPP is to: identify sage-grouse predators; identify nest predators; conduct predator removal experiments; determine habitat usage; and to collect other baseline data. He stated that the most highly ranked unknown was the effect of predation on sage-grouse. Their research is sound, as well as active management going on across the landscape in the Bighorn Basin.

Dr. Taylor stated that they use several methods of field surveys, one being the capture of hens at Leks. Other methods are survival monitoring, predator abundance/density, scat surveys, scent stations/camera traps, mortality investigations (35 days later), nest depredation investigations and nest vegetation surveys. WS personnel monitor different leks throughout March to determine where to capture the sage-grouse. A method of capture is the rocket net, which is labor intensive.

Data collected during the processing of captured birds include health assessment, wing pictures, blood collection, feather samples, weight, and collar or leg band attachment. Over 200 birds that have been collared, only three have resulted in mortalities. Tracking is done by VHF or ARGOS and the batteries are solar charged.

Ravens steal eggs from the nests, carrying them intact in their mouths, until they have taken all the eggs. The hen abandons the nest and moves on. Coyotes also steal eggs, but they oftentimes kill the hens in the process. Badgers are also a threat, but are not as great a predator as the ravens and coyotes. Trail cameras have also revealed that weasels are predators to the sage-grouse. Golden eagles take the adult hens, which they are very proficient at doing. **Dr. Taylor** said they have a video of a bullsnake stealing eggs from a nest, with the hen dancing around trying to scare off the snake. However, the snake won.

With the vegetation surveys, they take into consideration the nearest man-made structures, recent grazing, specific nest shrub information, line intercepts, visual obscurity, grass height, and cover composition.

All of the hens that have had transmitters on for the last three years, approximately 35 percent were killed by predators. Of the nests found, about 49 percent were destroyed.

Dr. Taylor said they would continue collecting data and will publish the results. Their efforts will mainly be on the ravens; however, they will not abandon the other sources of predation. That concluded the presentation.

Time was allowed for a few questions before the Senate Resources Committee needed to reconvene in WW55.

- ADJOURNED:** **Chairman Pearce** thanked Dr. Taylor and Mr. Pehringer for all their work and research regarding the sage-grouse, and also for the presentation. He then adjourned the meeting at 2:34 p.m.
- CONVENED:** **Chairman Pearce** called the meeting of the Senate Committee to order in WW55 at 2:40 p.m. The first order of business was to approve some minutes.
- MINUTES AND MOTION:** **Senator Tippets** made the motion to approve the Minutes of January 17, 2014. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**.
- MINUTES AND MOTION:** **Senator Siddoway** made the motion to approve the Minutes of January 20, 2014. The motion was seconded by **Vice Chairman Bair**. The motion passed by unanimous **voice vote**.
- MINUTES AND MOTION:** **Vice Chairman Bair** made the motion to approve the Minutes of January 22, 2014. The motion was seconded by **Senator Siddoway**. The motion passed by unanimous **voice vote**.
- PASSED THE GAVEL:** Chairman Pearce passed the gavel to Vice Chairman Bair so that he could explain the reason to make a correction regarding a rule.
- RULE:** **Vice Chairman Bair** said that during the rules review, the Committee had stricken two words from the pending rule, **Docket No. 26-0120-1302**, Department of Parks and Recreation, and those actions were not acceptable. The two words that were stricken (season and daily) were in the winter access program fee schedule, page 11, of the pending fee rules committee rules review book.
- MOTION:** **Senator Siddoway** made the motion to reconsider the actions taken on January 23 regarding **Docket No. 26-0120-1302**. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**.
- MOTION:** **Senator Siddoway** made the motion to adopt **Docket No. 26-0120-1302** in its entirety. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**.
- PASSED THE GAVEL:** Vice Chairman Bair passed the gavel back to Chairman Pearce.
- RS 22601:** **Chairman Pearce** stated that **RS 22601** would not be heard as the sponsor has withdrawn it.
- ADJOURNED:** **Chairman Pearce** adjourned the meeting at 2:50 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

JOINT
SENATE RESOURCES & ENVIRONMENT COMMITTEE
AND
HOUSE RESOURCES & CONSERVATION COMMITTEE
1:30 P.M.
Lincoln Auditorium
Monday, February 03, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|--------------------------------|--|---|
| | Presentation: "Suction Dredge Mining" | Joe Greene , US EPA Scientist (Ret); Tom Kitchar , President, Waldo Mining District, SW Oregon; Doug Giddings , Idaho County Sheriff; and Jim Chmelik , Idaho County Commissioner |
| | Following the Joint meeting, the Senate Resources & Environment Committee will convene in WW55. | |
| Minutes | Approval of minutes - January 27 | Senator Lacey |
| <u>RS22713</u> | Revise the definition of "Qualified Organization" for the purpose of issuance of free big game permits and tags to military veterans with disabilities | Sharon Kiefer, IDFG |
| <u>RS22659</u> | Clarify Idaho law to uphold Constitutional authority for State land to be exchanged in order to meet the Constitutional mandate of maximizing long term financial return to the Endowments | Senator Keough |
| <u>RS22619</u> | Revises provisions of eligibility and fees for the nonresident disabled American veterans hunting license and certain tags | Senator Patrick |
| <u>RS22730</u> | Revises procedural provisions relating to the sale of personal or real property of an irrigation district | Norm Semanko, IWUA |
| <u>RS22731</u> | Relating to irrigation districts; specify conditions, vacancies | Norm Semanko, IWUA |
| <u>RS22737</u> | Clarification purposes | Norm Semanko, IWUA |
| <u>RS22739</u> | Flood control | Norm Semanko, IWUA |

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippets
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
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Jordan Price, Page

MINUTES
JOINT MEETING
SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Monday, February 03, 2014

TIME: 1:30 P.M.

PLACE: Lincoln Auditorium

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Brackett, Heider, Tippetts, Stennett and Lacey

Chairman Denney, Vice Chairman Gibbs, Representatives Wood, Barrett, Moyle, Eskridge, Raybould, Andrus, Shepherd, Wood, Boyle, Gestrin, Miller, Anderson, Pence, Erpelding and Rubel

ABSENT/ EXCUSED: Senator Siddoway and Representative Vander Woude

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting of the Senate Resources and Environment Committee (Committee) and the House Resources and Conservation Committee (Committee) to order at 1:30 p.m. in the Lincoln Auditorium. He welcomed the members of the Committees and the near-capacity audience to the meeting on "suction dredge mining". **Chairman Pearce** noted that several written testimonies had been turned in from people who were unable to be present at today's hearing and those testimonies will be recorded in the Minutes of the meeting.

He then asked Representative Paul Shepherd, who was instrumental in arranging the program, to speak. **Representative Shepherd** said he wanted to welcome everyone and appreciates the turnout, as it is an important issue that is to be heard today.

SPEAKER: The first speaker was Joe Greene. **Mr. Greene** stated that he is a retired, U.S. EPA Research Biologist, an environmentalist, and a small-scale gold suction dredger. He was asked, as a concerned citizen of Idaho, to speak because of his scientific and mining experiences and credentials. He will not receive any income for his testimony.

Mr. Greene has over 30 years of national and international professional experience in research, and teaching. This includes a seven year courtesy faculty appointment at Oregon State University in the Department of Civil, Construction and Environmental Engineering where he was an adjunct professor working on environmental research projects in the Western Region Hazardous Substance Research Center. His association with problems of mining and surface water contamination began as early as 1974 in the Coeur d'Alene mining district with an investigation of the Kellogg, Idaho Sunshine silver mine and the Bunker Hill smelter. **Mr. Greene** said that he is very familiar with small-scale gold suction dredge mining, and over the past 30 years, he has observed and participated in suction dredge mining operations.

He was an invited member of the California Department of Fish and Wildlife Environmental Impact Report Public Advisory Committee. In 1994, they reached the conclusion that small-scale gold suction dredge mining had a less than significant effect on the environment. Seven published environmental impact reports also support this position. Millions of dollars have been spent to establish the fact that small-scale gold suction dredging has a less than significant effect on the environment.

A fair and balanced review of the scientific literature should also look for beneficial impacts to the environment from the operations of small-scale gold suction dredges. Reports on this subject generally overlook this fact. Some beneficial impacts are:

- Fish survival improves under turbid conditions;
- Holes create safe habitats for fish;
- Dredging breaks up compacted stream beds;
- Dredge tailings protect established redds by offering additional spawning substrate; and
- Dredging improves water quality by removing massive amounts of lead weights, used water bottles, car debris, nails, bolts, etc.

Small-scale gold suction dredge miners expect to be regulated fairly when operating on the public domain. Federal law reinforces that expectation. However, misapplication of the law is not desirable or acceptable. The Environmental Protection Agency (EPA) Region 10 implementation of the Idaho National Pollution Discharge Elimination System (NPDES) permit for small-scale gold suction dredging is a classic example of mission creep, where a body of permanent bureaucrats unanswerable to the public, changes the intent of Congress. The original regulation of clean water was a good idea, but the EPA has since used pollution to impose a vast matrix of regulations that do not reflect the fact that the nation's air and water is now as clean as it ever can be. The U.S. has been harmed by the many laws whose justification is based on the totally unscientific hoax. At this point, control of the nation's water quality should be returned in full to the states.

Small-scale gold suction dredges, operating in the rivers and streams of Idaho, are working within the normal high water mark of a river channel, and they cannot add a pollutant to the water system. Because the miners and prospectors are in the river channel, they can't add anything that isn't already there. Furthermore, mining debris is chemically inert, makes no oxygen demand on the stream and therefore takes away from the flowing water nothing that the fish require. This is equally true of this material whether placed in transit by nature or by man since the products are alike in nature and comes from the same sources.

Mr. Greene talked about the outrageous fines that the EPA and NPDES can impose upon the miners. A civil penalty for violations of permit conditions is \$37,000 per day for each violation. Administrative penalties are \$16,000 per violation, but not to exceed \$37,500. Negligent violations have criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than one year, or both. Knowing violations are subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than three years, or both. Knowing endangerment, upon conviction, is a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. These are just some of the penalties.

Mr. Greene closed his remarks by quoting Chief Justice Sandra Day O'Connor who likened a water system to a pot of soup. She reasoned that, "If one takes a ladle of soup from a pot, lifts it above the pot, and pours the soup back into the pot, one has not 'added' anything else to the pot."

A copy of Mr. Greene's full testimony and handouts are on file (see attachment 1).

Chairman Pearce thanked Mr. Greene for his presentation, then called on Mr. Tom Kitchar to speak next.

SPEAKER:

The following are the opening remarks of **Mr. Kitchar's** testimony:

"Dear Committee Members: I am Tom Kitchar, and I have the honor of being, since 2001, the President of the Waldo Mining District (WMD) located in SE Oregon. I have also been for the last 28 years a suction dredge gold miner living on and working my own claims near Cave Junction, Oregon (approximately 35 miles south of Grants Pass).

I was asked as a concerned citizen and a fellow miner to provide testimony to you today regarding NPDES permitting because of my eight plus years of experience fighting against NPDES permitting, and my 28 years' experience fighting for my and every citizen's congressionally granted rights under the 1872 Mining Law, as amended.

I present this testimony based on my 28 years of suction dredge mining experience; my knowledge of the U.S. Mining Law of 1872, U.S. Forest Service and BLM mining regulations, Sections 402 (U.S. EPA's NPDES permit system) and 404 (Army Corps) permitting (as applied to suction dredge mining), and numerous court decisions; and my experiences dealing with all of these laws, rules and regulations in my capacity as a citizen miner and as president of WMD (for example: WMD has been heavily involved in litigation since 2005 against the Oregon Department of Environmental Quality (ODEQ) over their continued issuance of the NPDES permit (for the EPA in Oregon). I have also participated extensively in the drafting of ODEQ's 700PM² permit in 2005 and 2010 (and the upcoming 2015 permit)."

Mr. Kitchar said that the EPA of Region 10 has saddled small-scale suction dredge gold miners in Idaho with a demand that they obtain NPDES permits issued by the EPA under Section 402 of the Clean Water Act (CWA). He said that raises the question - does the CWA require permitting for small-scale suction dredge gold mining operations in Idaho and if so, under what authority, agency and permit system? There does not appear to be a definitive clear-cut answer to this question. Because of this uncertainty, in Part I, he will examine the CWA, under the assumption that it does apply to suction dredge gold mining, and under Part II, under the assumption that the CWA does not apply to suction dredge gold mining.

Mr. Kitchar came to four conclusions. They are:

- 1) There is no "addition". The discharge from a suction dredge does not meet the "addition" test as 100 percent of the discharge from the dredge into the stream came from the very same stream, a few feet away. None of this discharge came from the "outside world".
- 2) There is no "pollutant". Because the suction dredge adds nothing to the sediment or water, there is no discharge of a "pollutant".
- 3) Not all waters in Idaho are "waters of the United States" as waters of the United States are "navigable waterways". The CWA does not apply to the non-navigable waters in Idaho.
- 4) Activities subject to § 404 regulation are not subject to § 402 regulation. Section 402 and NPDES permits are not correct for the discharge from small-scale suction dredge mining operations.

During the eight year battle with ODEQ (and the EPA) over NPDES permitting, the State has relied on court decisions that in almost all situations do not apply to the issue at hand. In Mr. Kitchar's research for his testimony, he came across several court decisions that at least hinted that there is no addition of a pollutant if the material being discharged is basically the same as what is present at the discharge site or causes no new change to the environment. Without an "addition of a pollutant", the CWA cannot apply.

The congressionally granted statutory rights granted to citizen miners under the U.S. Mining Law of 1872, even as amended, says that all unappropriated public lands belonging to the United States and the valuable minerals within "...shall be free and open" to exploration, occupation, and purchase. Mr. Kitchar feels that prospectors, miners, and mining claim owners, have a very real property right, which includes the right to mine - a concept that seems to be quite alien to such agencies as the EPA and the Army Corps. That concluded his presentation and his full testimony is on file (see attachment 2). Additional material was provided on this subject. It includes: Small Scale Mining vs EPA (see attachment 3); NPDES-GP (see attachment 4); and Mercury, God of Thieves (see attachment 5).

SPEAKER:

Mr. Doug Giddings, Sheriff of Idaho County for the past five years, was the next featured speaker. He said that he would share some situations that have occurred in Idaho County. As elected sheriff, he enforces local and state laws and does not enforce federal law. As his primary focus, he said that he enforces any violations that the citizens of his county violate. **Mr. Giddings** said that when federal agencies start making rules and regulations, and become heavy-handed, they become arbitrary. He was raised that elected officials make the rules and are answerable to the people. Federal law and regulation enforcement do not answer to the people and Mr. Giddings feels that it is not the way that government is supposed to work. **Mr. Giddings** said that it puts a lot of stress on the people that are stopped by a federal law enforcement officer.

Mr. Giddings stated that the people that are hired as federal officers are usually not local. "Inspectors" stop by, look at the dredges, takes pictures, make a report, and then leave. Miners feel okay until they get a letter in the mail from the EPA indicating that they owe X numbers of dollars and must get their dredge out of the water or whatever has been decided in Seattle. **Mr. Giddings** said that the people in the Seattle office do not understand the process or the people of Idaho County.

Mr. Giddings said that, as an elected sheriff, he stands between the people whom he represents and the EPA, or whoever is making the charges, none of which are elected officials.

With regard to the numerous studies that have been done, as mentioned in earlier testimony, **Mr. Giddings** said that the EPA blames the U.S. fisheries for the rules that the EPA requires to obtain a permit to dredge. Elected officials have not made these rules; apparently the EPA had permission to make rules, so they hired someone to do this. Mr. Giddings feels that they lacked good information. He also said that one forest fire along a river or one blowout in the river causes more damage than all the dredges in the world. As far as mercury is concerned, it is a natural occurrence which can't be changed.

Communication has been poor between the people of Idaho County and the EPA. When Mr. Giddings asked the EPA for information, they sent him "lots" of papers telling him why they had the authority to come into Idaho County to inspect and fine the dredges. In return, he sent them a copy of his book, the one that was written by elected people, and told them what he could do if he caught them in his county.

In closing, **Mr. Giddings** said that their (EPA) rules and regulations are not acceptable to the majority of the people, especially those in Idaho County. Idaho County has 8,500 square miles of awesome beauty and lots of water. He feels that the EPA wants them (miners) out of the river without a valid excuse; jet boats will be next, followed by the fishermen. The EPA wants to control the people and control the access to the rivers. Mr. Giddings used the analogy of filling a bucket one drip at a time and eventually it would be full to the EPA shutting down the miners, closing the rivers, and shutting down the forests by closing roads. **Mr. Giddings** stated that we all need regulations, but to have rules and regulations that we don't even know what for is insulting. In his opinion, these situations are escalating and they are intensifying and it is his job to represent the people. He hopes the Committees will think about what has been brought forth in the testimonies when they are dealing with issues concerning water, forests, and the citizens - as that is who elected officials represent.

Chairman Pearce called on Mr. Jim Chmelik, Idaho County Commissioner, the final speaker on today's program.

SPEAKER: **Mr. Chmelik** said that he is representing the people in the room, as well as those of Idaho County, and thanked the Committees for listening to their story. He said it is not so much the rule of law, but the foundations and principles of what we have in the Declaration of Independence and the Constitution.

Mr. Chmelik said that the EPA rule by their rules, makes them up as they go along, and operates by intimidation and fear. That is not the way the government was set up to operate. He then talked about the economic impact in Idaho and Idaho County, and said the radical environmental community is destroying the economy. He stated that we need to get back to protecting the rights of the people in this room and to defend the Constitution of the United States.

TESTIMONY: **Mr. Brad Bristol** who is representing himself and is a fourth generation Idahoan, said that the EPA told him that he was a criminal and had been since 1972. When they were asked how mercury contamination should be cleaned up, they did not respond. Also, miners clean up trash in the rivers and receive no credit for it.

TESTIMONY: **Mr. Ron Hancock** said what he had to say had already been covered.

TESTIMONY: **Mr. Roger Jorstad** said he is a veteran, has \$10,000 worth of junk, a dredge and \$1,000 of gold. He stated that the Idaho Conservation League went through the EPA to cause problems for the dredge miners. He then referred to the Water Quality Summary Report 34 by the Idaho DEQ stating that the water quality study on the South Fork of the Clearwater River did not indicate any impacts due to dredging operations (see attachment 6). He stated that the Idaho Department of Water Resources (IDWR) had a one page application for suction dredging and the EPA has 44 pages. Last year, there were 911 applications and only 61 were approved by the EPA.

TESTIMONY: **Mr. John Stickley** was the last member of the audience to testify. He has been mining on the South Fork of the Clearwater River for several years and was notified by the EPA on August 11, 2013 that he was not in compliance. He was informed that he could be fined \$50,000, plus \$37,500 a day, plus three years in federal prison. **Mr. Stickley** said he and the others are here today to stand up for their rights.

**WRITTEN
TESTIMONY:**

Written testimony was received from the following people regarding the subject of suction dredge mining and/or problems with the EPA and NPDES:
Dan Catherman (see attachment 7);
Victor L. Schneider (see attachment 8);
Sandy Staab (see attachment 9);
a copy of a letter sent to Tim Luke by Gay Richardson and Ed Kelly (see attachment 10);
and a copy of a letter sent to Congressman Raul Labrador by Gay Richardson (see attachment 11).

Chairman Pearce invited Chairman Denney to share his thoughts. **Chairman Denney** thanked the people for coming to the hearing and educating the legislators as to what is going on. He said if there is more written testimony, please give it to the secretaries for the record.

Chairman Pearce apologized for not having more time to devote to the hearing, but the auditorium has been scheduled for another meeting at 3 p.m. He announced that the Senate Committee will convene in WW55 to conduct some Committee business in approximately five minutes.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:37 p.m.

CONVENED: **Chairman Pearce** called the Senate Resources and Environment Committee to order in WW55 at 2:42 p.m.

MOTION: **Senator Lacey** made the motion to approve the Minutes of January 27, 2014. The motion was seconded by **Senator Stennett**. The motion passed by unanimous **voice vote**.

RS 22713: This legislation, **RS 22713** is sponsored by Chairman Pearce; however, he asked Ms. Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game (IDFG) to explain it. **Ms. Kiefer** said that this proposal adds nonprofit organizations that assist veterans and have a 501(c)(4) status of the Internal Revenue Code as qualified organizations to apply for the free big game tags issued to disabled military veterans as prescribed by rules of the Idaho Fish and Game Commission. This change allows chapters of Disabled American Veterans to participate in this program on behalf of resident and nonresident disabled military veterans.

MOTION: **Vice Chairman Bair** made the motion to send **RS 22713** to print. The motion was seconded by **Senator Cameron**. The motion passed by unanimous **voice vote**.

RS 22659: **Senator Keough** said the purpose of this legislation, **RS 22659**, is to clarify Idaho law to uphold constitutional authority for state land to be exchanged in order to meet the constitutional mandate of maximizing long term financial return to the Endowments. It also seeks to clarify that lands known as 'cottage sites' can be exchanged for land of equal value regardless of whether the land exchanged for is used for cottage sites, ranching, forestry, or other permitted uses of state lands.

MOTION: **Vice Chairman Bair** made the motion to send **RS 22659** to print. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**.

RS 22619: **Senator Patrick** said **RS 22619** revises provisions of eligibility and fees for the nonresident disabled American veterans hunting license and certain tags by rescinding the requirement that nonresident disabled American veterans must hunt in association with a qualified organization to be eligible for a reduced fee hunting license and certain tags. Reduced fees for eligible individuals are aligned with fees for nonresident junior hunters, which is a substantial reduction from adult nonresident fees. The revisions will simplify hunting license and tag purchase by nonresident disabled American veterans.

MOTION: **Senator Tippetts** made the motion to send **RS 22619** to print. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**.

RS 22730: **Mr. Norm Semanko**, Executive Director, Idaho Water Users Association, presented **RS 22730**. This legislation updates the process relating to the sale or personal or real property of an irrigation district.

MOTION: **Senator Brackett** made the motion to send **RS 22730** to print. The motion was seconded by **Senator Cameron**. The motion passed by unanimous **voice vote**.

RS 22731: **Mr. Semanko** said there are several purposes for **RS 22731**. It requires each irrigation district director to meet director qualification requirements during the term of office; it requires each director to notify the other directors if he will no longer meet those requirements during his term; it allows a disqualified director to serve until a successor takes office if necessary to conduct the district's affairs; it authorizes the directors to declare a vacancy in the office of director; it conforms the bonding requirement for an appointed director to the bonding requirement for an elected director; and provides that an appointed director has all of the rights, powers, liabilities, duties and obligations of the director's office.

MOTION: **Vice Chairman Bair** made the motion to send **RS 22731** to print. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**.

RS 22737: **Mr. Semanko** said that this legislation, **RS 22737**, clarifies the irrigation district code by correcting all instances when an irrigation district officer is mistakenly referred to as a director.

MOTION: **Senator Heider** made the motion to send **RS 22737** to print. The motion was seconded by **Senator Tippetts**. The motion passed by unanimous **voice vote**.

RS 22739: **Mr. Semanko** asked that **RS 22739** be held until a later date.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:55 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

JOINT
**SENATE RESOURCES & ENVIRONMENT COMMITTEE
AND
HOUSE RESOURCES & CONSERVATION COMMITTEE**
1:30 P.M.
Lincoln Auditorium
Wednesday, February 05, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|----------------|---|--|
| Oil and Gas | Presentation: "Overview of Oil and Gas, Well Drilling and Completion" | Paul Powell , President, Petroglyph Energy |
| Water | Presentation: "Swan Falls Agreement" | Jim Jones , Idaho Supreme Court |

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippetts
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
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MINUTES
JOINT MEETING
SENATE RESOURCES & ENVIRONMENT COMMITTEE
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Wednesday, February 05, 2014

TIME: 1:30 P.M.

PLACE: Lincoln Auditorium

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippets, Stennett and Lacey

Chairman Denney, Vice Chairman Gibbs, Representative(s) Wood, Barrett, Moyle, Eskridge, Raybould, Andrus, Shepherd, Wood, Boyle, Vander Woude, Gestrin, Miller, Anderson, Pence, Erpelding and Rubel

**ABSENT/
EXCUSED:** None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the joint meeting of the Senate Resources and Environment Committee (Committee) and the House Resources and Conservation Committee (Committee) to order at 1:33 p.m. He welcomed the audience of approximately 50 people, as well as both the Senate and House Committee members.

Chairman Pearce then asked Ms. Suzanne Budge, lobbyist for the gas and oil industry, to introduce today's speaker. **Ms. Budge** said that she was pleased to introduce Mr. Paul Powell, President of Petroglyph Energy and a member of the Idaho Petroleum Council Board, to the Committees. He has been around Idaho for several years in a number of other capacities and is not a stranger to a lot of people here today.

SPEAKER: **Mr. Powell** said that he represents a gas and oil exploration construction company headquartered here in Boise and their parent company is Intermountain Industries. He started his presentation by playing a four minute video that explained the terminology of the gas and oil industry, and it also showed how wells are drilled.

Mr. Powell also provided a PowerPoint presentation - "Overview of Oil & Natural Gas Well Drilling and Completion" (see attachment 1). The slides included a view of the Uinta Basin activity in Utah; a drilling rig; two types of drill bits - PDC and Tri-cone; Rotary Steering System; Importance of Mud System; Perforating; Perforation Penetration; Rock Porosity vs. Permeability; Well Stimulation; and Typical HF Fluids and Proppants. He explained each of the slides in relation to what their purpose is and what it has to do with drilling for gas and oil.

He stated that most of the gas and diesel that is used here in Boise probably comes from the refineries in Salt Lake City, Utah. Approximately 53,000 barrels of oil a day comes from the Uinta Basin in eastern Utah and 750 million cubic feet of gas is produced each day, also out of that Basin. At the present time, the company does not have any wells in Idaho, but will drill 60 wells this year in Utah. Currently, they are operating 250 working wells.

Time was allowed for a few questions from the Committees and that concluded the program.

Chairman Pearce thanked him for the information that was presented, then welcomed Mr. Jim Jones, Justice of the Idaho Supreme Court, who will speak about the "Swan Falls Agreement".

SPEAKER:

Justice Jones said he was asked by Speaker Bedke to give a little 'institutional memory' with regard to the Swan Falls Agreement. He stated that he wanted to make two disclaimers. Number one, because of his current position, he can only talk about historical occurrences, and number two, there may be some things that he says in historical context that could be construed as unfavorable to a party to the dispute at that time. **Justice Jones** also said that nothing is intended to be disrespectful to the other parties of the dispute.

He then gave some background information regarding Swan Falls. It was the first dam constructed on the Snake River in 1901 to provide water power to the mines in Silver City. About 1915, it was acquired by the Idaho Power Company and therefore, has a very old water right. The initial water right was 9,450 cubic feet per second (cfs), and historically, the flows had not been that great. The highest level had been 8,400 cfs.

A dispute arose because of the old water right, and subject to the depletion of water for the upstream uses, some ratepayers filed a proceeding with the Idaho Public Utilities Commission in 1977 saying that the Idaho Power Company was not protecting its water right at Swan Falls. The ratepayers felt they were being adversely impacted. In order to protect itself, the Power Company filed suit in district court in Boise asking for a declaration that they had the water right and that upstream users were depleting it.

The out-of-court deal in 1984, known as the Swan Falls Agreement, resolved years of political and legal wrangling. Involved were Governor John Evans; Idaho Power President, Jim Bruce; and Mr. Jones, who was the Attorney General at that time. Terms of that pact allocated Idaho Power a right to 5,600 cfs minimum flow during winter months and 3,900 cfs in the summer months. Without the agreement, farmers and other water users would have had to pay Idaho Power for water they had previously had a right to use. It also set in motion the legal review of all of the water rights in the Snake River basin. This review, called the Snake River Adjudication, has been working its way through state courts since 1987.

Idaho Power challenged the Swan Falls pact in 5th District Court in 2007. It claimed it was being shorted on the amount of water the agreement promised to deliver to the Swan Falls Dam. Utility lawyers argued that drought and a significant draw down of the Eastern Snake Plain Aquifer from groundwater pumping had reduced flows in the river and impinged on the utility's ability to generate power. Idaho Power also sought to clarify its rights to water above the seasonal minimum flows. Rights to those flows, as set forth in the Swan Falls agreement, have been held in trust by the State and used for irrigating crops and recharging the depleted aquifer upstream of the dam.

The proposed settlement clarifies that water rights held in trust by the state of Idaho can be subordinated for uses such as aquifer recharge. In return, the State has agreed to back Idaho Power if it seeks to raise consumer rates to recoup any lost revenue directly related to the State's decision to use trust water to recharge the aquifer.

The intent of the proposed "2009 Framework Reaffirming the Swan Falls Settlement" was to reconfirm, rather than change, any of the terms and conditions of the 1984 Swan Falls Settlement. It will resolve three issues regarding the interpretation of the 1984 Swan Falls Settlement. First, it will reaffirm that for the purposes of the determination and administration of rights to the use of the waters of the Snake River or its tributaries downstream from Milner Dam, no portion of the waters of the Snake River or surface or ground water tributary to the Snake River upstream from Milner Dam are to be considered. Second, it will reaffirm the Swan Falls Agreement by decreeing the hydropower water rights for Idaho Power Company's facilities between the Milner Dam and the Murphy Gage. Finally, it will reaffirm that the 1984 Swan Falls Settlement does not preclude use of water for aquifer recharge.

In summary, the State and Idaho Power Company believe the terms of the proposed 2009 Reaffirmation Settlement are entirely consistent with the 1984 Swan Falls Settlement and provide an opportunity for the parties to set aside their differences and work in a cooperative manner to resolve other Snake River water management issues.

Following a short discussion, **Chairman Pearce** thanked Justice Jones for his comments, then announced that the House Committee will be remaining in the auditorium to conduct some committee business.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:50 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 10, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|-----------------------------------|--|------------------------------------|
| Minutes | Approval of Minutes, 1/29/14 Approval of Minutes, 2/03/14 | Senator Heider Senator Brackett |
| <u>RS22739C1</u> | Relates to flood control issues | Norm Semanko, IWUA |
| <u>RS22527C1</u> | Use of water for protection of life and property | Senator Brackett |
| <u>RS22820</u> | Help preserve float homes on Hidden Lake | Senator Nonini |
| Gubernatorial Appointment Hearing | Chris Charles Beck of Hayden Lake, Idaho was appointed to the Oil and Gas Commission to serve a term commencing July 10, 2013 and expiring July 1, 2015. | |
| Gubernatorial Appointment Hearing | Sidney "Sid" R. Cellan of Soda Springs, Idaho was appointed to the Oil and Gas Commission to serve a term commencing July 10, 2013 and expiring July 1, 2014. | |
| Gubernatorial Appointment Hearing | Margaret "Marg" Gail Chipman of Weiser, Idaho was appointed to the Oil and Gas Commission to serve a term commencing July 10, 2013 and expiring July 1, 2016. | |
| Gubernatorial Appointment Hearing | James S. Classen of Boise, Idaho was appointed to the Oil and Gas Commission to serve a term commencing July 10, 2013 and expiring July 1, 2017. | |
| Gubernatorial Appointment Hearing | S. Kennard Smith of Boise, Idaho was appointed to the Oil and Gas Commission to serve a term commencing July 10, 2013 and expiring July 1, 2017. | |
| <u>S 1277</u> | Exchange of State lands | Senator Keough |
| Discussion | Possible recommendations to JFAC regarding Governor's budget concerning: IDFG, IDL, IDPR, IDWR, OSC | Chairman Pearce |

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippets
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 10, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the Senate Resources and Environment Committee (Committee) meeting to order at 1:30 p.m.

MINUTES: **Senator Brackett** made a motion for the approval of the Minutes of February 3, 2014. The motion was seconded by **Senator Stennett**. The motion passed by unanimous **voice vote**.

MINUTES: **Senator Heider** made a motion for the approval of the Minutes of January 29, 2014. The motion was seconded by **Senator Tippetts**. The motion passed by unanimous **voice vote**.

RS 22739C1, RS 22527C1, RS 22820: **Senator Siddoway** made a motion to print **RS 22739C1, RS 22527C1, and RS 22820**. There was no discussion or objection. The motion was seconded by **Vice Chairman Bair**. The motion passed by unanimous **voice vote**.

Chairman Pearce invited Tom Schultz, Director of the Idaho Department of Lands to introduce the five nominees to the Oil and Gas Commission.

INTRODUCTIONS: **Mr. Schultz** stated that he is the Director of the Idaho Department of Lands (IDL) and also the secretary to the Oil and Gas Conservation Commission. During the last legislative session, a new commission was created. Prior to that, the Land Board functioned as the Oil and Gas Commission in Idaho. Now, there is an appointed board consisting of five members who are experts in oil and gas, geology and water, as well as two landowner representatives - one who owns mineral rights and one who owns land without mineral rights. They are: Chris Charles Beck, chairman (water interests); Margaret "Marg" Chipman, vice chairman (landowner with mineral rights); Sidney "Sid" Cellan (landowner without mineral rights); James S. Classen (geological interests) and S. Kennard Smith (oil and gas interests).

GUBERNATORIAL APPOINTMENT HEARING: First to speak was **Chris Beck**, and he stated that he grew up in Meridian and graduated from high school there. He then graduated from the University of Idaho in 1983 with a B.S. in Geological Engineering. He received his M.S. in Geological Engineering in 1988. Mr. Beck is also a licensed professional engineer (P.E.) in Idaho and Washington. He has had a private practice for over 30 years and has studied soil, ground water, and geology issues. He feels that with this background, he is a good candidate for the Commission.

With regards to public office, Mr. Beck served as Mayor, City of Hayden Lake in 2012; Councilman, City of Hayden Lake, 2010; Councilman, City of Hayden, 1999, 2003; Commissioner, Hayden Urban Renewal Agency, 2005; Vice Chairman, State Trustee, Panhandle Health District, 1996, 2001, 2006; and member, Rathdrum Prairie Aquifer Comprehensive Aquifer Management Plan Advisory Committee (IDWR), 2009.

Mr. Beck said that he was asked to provide information about the Commission. The five members were appointed by the Governor last summer, then attended an orientation meeting in September. In early October, they held their first meeting and so far, that has been the extent of their business.

Senator Cameron said that some concerns that have been expressed have been the location of sites and the interface between it (Commission) and local units of government and the Land Use Planning Act. He asked for Mr. Beck's perspective and how he would avoid confrontation with local units of government.

Mr. Beck responded by saying that the Commission needs to respect the local land use issues, needs to be cooperative and not get in an adverse situation.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Mr. Sid Cellan was called on next. He represents landowners without mineral rights and lives in Soda Springs. He has farmed over 40 years and acquired the land from his father, who had leased or sold all the mineral rights of the property. Mr. Cellan is presently vice president of the Idaho Grain Producers Association and also is a member of the executive board of the National Association of Wheat Growers, located in Washington, D.C.

Senator Cameron asked Mr. Cellan what his philosophy is concerning dealing with local government and making sure that the Land Use Planning Act remain in place. **Mr. Cellan** responded by saying that everyone needs to work together and not infringe on anyone's rights. He feels the Commission can obtain those standards.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Mrs. Margaret Chipman, vice president of the Commission, testified next. She was born and raised in Moscow, where she received her college degree in business. She met her husband (of 45 years) at college, moved around due to his career, but now lives in Weiser where they have feedlots and ranches. Some of her jobs have included teaching, various office positions, LPN and scrub nurse in the operating room (OR) for ten years and pharmacy tech for six years. Mrs. Chipman has served on the Weiser School District Board of Trustees for 20 years, as well as currently being on the Idaho School Board's Executive Board.

In 2011, they were approached by some men from Texas who were interested in leasing their mineral rights. She said she was nervous and a little less than enthusiastic at first, but she did research and helped facilitate two town hall meetings, one with industry people and the other with agency officials. **Mrs. Chipman** said they realized the potential of this industry for their area and want nothing but the best for the State. A copy of her full testimony is on file (see attachment 1).

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Senator Siddoway inquired if the oil and gas rigs and personnel caused a disturbance in their area; if it bothered the operation of their farm; and was there a lot of traffic causing dust problems? **Mrs. Chipman** said the oil and gas people kept her informed, were courteous and were up-front about their activities. There was not as much activity in Washington County (where she lives) as compared to Payette County. **Senator Siddoway** asked about the amount of exploration that is going on, have the wells been completed and are they producing now? **Mrs. Chipman** stated that no wells have been drilled in Washington County, but several wells have been drilled in Payette County. A conditional use permit has been obtained to put in a dehydration facility so that they can get the gas delivered to the pipeline. There is gas flowing to Intermountain Gas in the city of New Plymouth from a state well. There is interest in Gem and Canyon Counties. **Senator Siddoway** inquired if Mrs. Chipman had received complaints from the public since she was appointed to the board. **Mrs. Chipman** replied that she has not personally been contacted.

Senator Stennett inquired if Mrs. Chipman had a conflict of interest. **Mrs. Chipman** said that she doesn't feel there is a conflict, but would be open at all times, and if the question was brought up, it would be addressed. **Chairman Pearce** said that it was required of one member of the Commission to own land with mineral rights and Mrs. Chipman was selected.

Mr. James Classen was the next to be interviewed. He stated that he was born in San Francisco, California and raised in Woodside, California. His education consists of: Engineer of Geology, Colorado School of Mines; M.S. Geology, Stanford University; worked toward a M.B.A., University of New Orleans and TCU night school, as well as occasional additional night courses. Mr. Classen was a 1st Lt., with the Combat Engineers USAR and also served in the Active Reserve. He was awarded an honorable discharge in 1966.

Professional Societies that Mr. Classen belongs to include:

- American Association of Petroleum Geologists;
- American Institute of Professional Geologists (#1858);
- Houston Geological Society;
- Lafayette Geological Society;
- New Orleans Geological Society;
- Rocky Mountain Association of Geologists;
- Society of Petroleum Engineers; and
- Society of Independent Professional Earth Scientists.

Since January 1982 and up to the present time, Mr. Classen has been and is the President of Classen Exploration, Inc. (CEXI). This is an exploration company which generates and sells prospects, manages drilling programs, performs consulting services and participates in oil and gas ventures. CEXI is an adjunct to Classen & Co. LLC, and screens prospects, sometimes putting together their own prospects for sale, participation and drilling. It also participates with working interest in oil and gas prospects.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Mr. Classen said that he wants what is best for the State and what is best for the State is also the best for the oil and gas people. He stated that the industry does not want conflict and wants to do what is best for the people. He does not foresee conflict as an issue down the road. When asked why he wanted to volunteer to apply to become a potential member of the Commission, **Mr. Classen** said he thought it would be "fun for an old guy", and with his background, he could help the State.

The last of the candidates to speak was **S. Kennard Smith** now of Boise, but grew up in Texas. When asked why he would like to serve in this capacity, he stated that he has 40 years experience in the oil and gas business and believes his experience would be helpful to the State. Mr. Smith is retired and is willing to serve.

Organizations that Mr. Smith belongs to are the following:

- Texas Society of Certified Public Accountants;
- Boise Philharmonic Association;
- former member of the Society of Petroleum Engineers;
- American Association of Petroleum Geologists (Associate member); and
- American Institute of CPAs.

Mr. Smith said that he received his B.A. from the University of Texas at Austin, 1966. His career history includes employment with Petroglyph Energy from 1994 to 2011. He retired from there September 30, 2011 and now consults for them full time. Prior to that, he was executive vice president and chief technical officer from 2008 to 2011; executive vice president and chief operation officer from 1996 to 2008; and chief financial officer from 1994 to 1996.

Mr. Smith has also served as chief financial officer for companies whose business involved exploration, production, contract drilling, refining, oil field services, pipeline, and coal transportation and marketing.

As principal and treasurer of TKS Consulting, he performed economic and financial analysis, as well as served as an expert witness in state and federal court and regulatory agency hearings. He also has had experience in negotiations with the public with regard to their land, drilling sites, roads, fences, etc.

Mr. Smith stated that after 40 years in the business, he still enjoys the work and said there is always something to learn.

Senator Stennett reviewed some of the requirements to be on the board – landowner with mineral rights; landowner without mineral rights; one or more have an oil and gas background; and one or more have geology experience and knowledge. She then asked who is responsible for covering the water issues for the Commission. **Mr. Beck** replied that he had that obligation.

Chairman Pearce said that concluded the interviews for the appointees and he thanked them for their service to the State and the expertise they bring to the Commission. He noted that voting will take place Wednesday, February 12 or possibly Monday, February 17.

Chairman Pearce then called on Senator Keough to present her bill, **S 1277**.

S 1277:

Senator Keough stated that she would like permission to pass out copies of a proposed amendment to **S 1277**. If the Committee so desires, the bill would be sent to the 14th Order (Amending Order) for contemplation of the proposed amendment. She acknowledged the co-sponsors that have worked with her on this legislation, along with many others.

Senator Keough said the purpose of the legislation is to find a path forward on the issue of land exchanges that have troubled the Land Board in the past few years. The legislation seeks to clarify how land can be exchanged, whether it is 'cottage sites' or other land that may be in state ownership. **Senator Keough** proposed that the word "similar" on line 14 of the bill be stricken. On line 20 after "private" strike the rest of the line. Strike lines 21 through 26 and insert the following language: "As used in this section, an exchange of state lands means a transaction in which the State conveys the land to another party or parties pursuant to an agreement that predates the exchange, in which transaction a party conveying land to the State may be different from a party to whom the State conveyed land. The parties dealing with the State in such an exchange transaction shall not be prohibited from purchasing or selling assets related to accomplishing the transaction before, simultaneously, or after said transaction, provided that all such prior and simultaneous purchases and sales are expressly provided for in the exchange agreement."

Senator Keough turned her remaining time over to Mr. John Runft, Attorney for the Association for Assembled, Multiparty Land Exchanges (an Idaho unincorporated non-profit association organized under Chapter 7 of Title 53 of the Idaho Code), who can more specifically address the last few lines and the proposed amendment.

Mr. Runft provided a blue packet (see attachment 2) that contained information relating to his testimony. He referred to the first page, a copy of the bill with lines 20 through 26 highlighted in yellow, which they propose to revise. The word "similar" and the words "to consolidate state lands" do not appear as a requirement in the Constitution. The second page contains the proposed revised wording. **Mr. Runft** said the purpose of the revised wording is to define the definition of an exchange of state lands. It means a transaction in which the State conveys the land to another party or parties pursuant to an agreement that predates the exchange, in which transaction a party conveying land to the State may be different from a party to whom the State conveyed land.

Mr. Runft then asked to turn over any remaining time to former Idaho Attorney General David Leroy, who has been commissioned by the Speaker of the House, Representative Bedke, for an analysis on the constitutionality of **S 1277**. **Mr. Leroy** stated that he engaged Lynn Thomas, former solicitor general of the state of Idaho, and a man familiar with constitutional issues and concepts to help in research for today's presentation.

Mr. Leroy provided a six page questions/summary/analysis/conclusion of his research which was delivered to the Speaker of the House this morning and is on file (see attachment 3). The questions presented are as follows:

1. Does the Idaho Legislature have the legal authority to amend Idaho Code § 58-138 to allow the exchange of trust lands for "dissimilar" or "non-consolidated" public or private property?
2. Does the Idaho Legislature have the legal authority to amend the Code to permit an exchange of state endowment holdings for public or private lands of "greater" than equal value?

3. Does the Idaho Legislature have the legal authority to amend the Code to limit exchanges to lands with primary value buildings which will be occupied by a public purpose entity?
4. Does the Idaho Legislature have the legal authority to amend the Code to prescribe a sufficiently broad definition of "exchange" to include multiple party conveyances, even if a subsequent sale is planned by the recipient?
5. Are land exchanges made pursuant to statute constitutional, or are such transactions merely "disguised sales" and voidable for lack of a public auction?

In Mr. Leroy's summary, it states that the Idaho Legislature does have the authority (1) to allow the exchange of state lands, including those held in trust, for both dissimilar property and for "non-consolidated" properties; (2) to amend the Code to permit an exchange of state endowment holdings for public or private lands of greater value; (3) to amend the Code to limit exchanges to lands with their primary value in buildings which will be occupied by a public purpose entity; and (4) to amend the Code to prescribe a definition of "exchange" that would include multiple party conveyances, even if a subsequent sale is planned by the recipient. Further, (5) land exchanges are specifically authorized under the Constitution in a section separate and independent from the alternative process of a sale of public land at auction. Thus, exchanges, as a matter of law, can not be characterized as merely "disguised sales".

The conclusion that Mr. Leroy came to was that all of the first four questions presented are answered in the affirmative. Fifth, an exchange is fully constitutional in Idaho and can not be negatively characterized as a sale without a public auction. The Legislature has the authority to propose language and enact all of the amending concepts contained in **S 1277**. It also has the authority to amend the same to encourage exchanges for "greater" than equal value.

TESTIMONY:

Mr. David New said that he is representing himself today and is a professional forester, as well as a business consultant, and is supporting **S 1277**. Currently, he is an advisor to four international timber investment organizations and a tribal natural resource enterprise helping with resource valuation and performance reporting. He is also a consultant advisor to a land exchange company responsible for valuation analysis to establish financially prudent land exchange proposals between public land management agencies and private landowners. In 2007 and 2008, he worked as a consultant for the Idaho Department of Lands (IDL). In 2007, it was the last time that IDL comprehensively reported to the Western States Land Commissioners Association the current valuation, as well as annual net cash and capital returns, of the Endowment Trusts.

Mr. New went on to say that in 2007, the total trust assets were valued at approximately \$2.4 billion of rangeland, timberland, commercial and residential properties. Over \$1 billion of these assets did not meet either the average net cash or total return investment targets established in 2011 and 2012 by the Department and Land Board. The Department and the Land Board deserve credit for establishing the much needed Asset Management Plan. However, review of the historical financial performance prior to asset reporting recognizes the problem of under-performing assets, and in Mr. New's opinion, it has existed for decades.

Mr. New stated that a quick review of the annual financial reports from the Department revealed that range lands, residential real estate, and low productivity timberland have been earning between zero and three percent net cash on asset value for decades. Reinvestment of these significantly under-performing \$1 billion of assets into working forests and leased agriculture crop lands would provide immediate improvement to the Endowment Trust's annual net cash return basis from zero to three percent, to four to six percent per annum. In closing, **Mr. New** said this is long overdue from the Land Board, IDL, and the Legislature, to establish a road map to exchange, at the very least, ten percent of the endowment's under-performing assets during the next five years. A copy of his testimony is on file (see attachment 4).

TESTIMONY:

Mr. Gordon Crickshank, Valley County Commissioner, testified in support of **S 1277**. He feels it is important to the state endowment beneficiaries and the residents of Valley County. Much of the conflict and many of the challenges facing state land managers today stem from past land management policies that can be addressed on land exchanges. Much of the state land asset value around Payette Lake is encumbered in a leasehold interest with cottage-site leaseholders owning the improvements. This leasehold arrangement has long been in conflict and a nuisance for both tenant and lessee and should have long ago been resolved through land exchanges. A copy of his complete testimony is on file (see attachment 5).

TESTIMONY:

Director Tom Schultz, IDL, said that last October, there were several land exchanges that went before the Land Board. A concern was raised over similar land language and the disguised sale issue. This bill does several things - it eliminates the similar land language that the department had tried to remove for three consecutive years and the issue of commercial properties is also addressed in this bill. The Director said that the Land Board has not taken a position on this bill, but they are aware that there is a concern about commercial properties. During this next year, the Land Board is looking at hiring a consultant to look at both the financial trust, as well as the land trust, and to make recommendations on how to make decisions on investments, as well as what types of investments. The Land Board has already taken some of these issues under consideration. **Director Schultz** said that he wanted to thank Senator Keough for bringing this legislation forward and he is here to answer any questions.

TESTIMONY:

Mr. Jeff Lord, from Elmore County, said that he supports **S 1277**, and is here to speak on behalf of Idaho landowners who also lease endowment lands that have expressed interest in acquiring those lands. His family has previously acquired land through an exchange with the endowment. They disposed of land outside the boundaries of their ranch and acquired land adjacent to a block of state land and subsequently traded that to the State for land within their management control. **Mr. Lord** said that exchanges of this size are difficult to accomplish because they do not justify staff time on a cost benefit basis.

He stated that the bill provides the Legislature the opportunity to exercise its oversight role to help affect land exchanges to generate increased revenues to the endowment beneficiaries. A copy of Mr. Lord's full testimony is on file (see attachment 6).

TESTIMONY:

Mr. Todd Hatfield said that he is representing himself today and does support the land exchanges, but is asking that it be amended. He stated that the word "structure" is in conflict with Article 9, Section 8 of the Constitution. He also asked for clarification on line 15 regarding consolidations.

TESTIMONY:

Mr. Mark Benson, Vice President of Public Affairs for the Potlatch Corporation, testified next. He stated that they are in support of **S 1277**.

Mr. Benson said that Potlatch was founded in 1903 and has operated continuously in Idaho for 111 years. They own about 800,000 acres of forest land in Idaho and in addition to their forest holdings, they operate a sawmill and plywood plant in St. Maries. The company directly employs about 300 people in the State, plus several hundred local contractors. They are committed to their business and manage their lands sustainably under the Idaho Forest Practices Act, as well as third party certification standards.

Mr. Benson indicated that land exchanges are a tool for land managers. Direct and multiparty land exchanges are common across the country for facilitating both land acquisition and disposal strategies. Land exchanges are also extremely useful and at times the only way to consolidate land ownership. Any land owner, including the state of Idaho, benefits over time by being able to exchange lands. The fewer barriers that exist to consolidating lands, the better any land manager can manage its lands. Potlatch and the state of Idaho share hundreds of miles of property lines. It's in their best interest and in the State's best interest to consolidate their respective ownerships over time.

Mr. Benson testified that **S 1277** clarifies the laws relating to land exchanges involving state land in Idaho. The bill provides the state of Idaho the same flexibility that other land owners have to manage their land assets. The additional flexibility afforded to the State by being able to engage in direct and multiparty land exchanges enhances the State's management efficiency and in turn benefits the trustees for whom the State manages its land assets. He said that this bill will eliminate the confusion that has hovered over the Land Board regarding its authority to enter into land exchanges. That concluded **Mr. Benson's** testimony and a copy of his testimony is on file (see attachment 7).

TESTIMONY:

Mr. Jason Kreizenbeck said that he is representing the Priest Lake State Lessees Association which has 320 members who lease cabin sites on Priest Lake. He has submitted a three page letter from Charles Lempesis, attorney for the Association, to all the Committee members (see attachment 8). **Mr. Kreizenbeck** stated that they support **S 1277** and appreciate all the work done by Senator Keough.

**WRITTEN
TESTIMONY:**

Written testimony that was submitted and is in favor of **S 1277** includes the following:

Pat Richardson, Orofino, Idaho (see attachment 9);
Tom and Vicki Wielgos, Coolin, Idaho (see attachment 10);
Andrew Jacobs, Boise, Idaho (see attachment 11);
Thomas V. and Kathleen M. Trotter, Priest Lake lessees (see attachment 12);
Diane Bagley, Boise, Idaho (see attachment 13);
Russell C. Mager, Lewiston, Idaho (see attachment 14);
Margaret Drummond and Lon Southard, Coolin, Idaho (see attachment 15);

Edward O'Gara, Ketchum, Idaho (see attachment 16);
Kevin and Anne Hanigan, Payette, Idaho (see attachment 17);
Don F. Pickett, Oakley, Idaho (see attachment 18);
Gary and Tomi McGee, Boise, Idaho (see attachment 19);
Stephen Rice, Lewiston, Idaho (see attachment 20);
John Brumley, Coeur d'Alene, Idaho (see attachment 21);
Thomas Clevenger, Post Falls, Idaho (see attachment 22);
David Penny, Boise, Idaho (see attachment 23);

Joe and Cindi Feeley, McCall, Idaho (see attachment 24);
Barbara Barsness, Eagle, Idaho (see attachment 25);
Kenneth Smith, Boise, Idaho (see attachment 26);
Anne Herndon, Boise, Idaho (see attachment 27); and
John F. Magnuson, Coeur d'Alene, Idaho (see attachment 28).

A report, "The Case for Uniform Land Asset Reporting, July 2008" by the Asset Management Subcommittee of the Western States Land Commissioners Association was submitted by Ms. Jane Wittmeyer of Wittmeyer & Associates, LLC (see attachment 29).

CONCLUSION:

Senator Keough said that she appreciated the opportunity that was given them to present **S 1277**. She indicated that the purpose of the legislation is to delineate what the policy will be in regards to land exchanges and the ownership of those lands and is an attempt to clarify the policy.

Senator Keough said that if the Committee feels comfortable in doing so, she would ask that **S 1277** be sent to the 14th Order (Amending Order).

MOTION:

Senator Siddoway made the motion to send **S 1277** to the 14th Order. The motion was seconded by **Vice Chairman Bair**. **Senator Cameron** inquired if it wouldn't be better to send a "clean" bill to the floor, rather than having this one amended. There was no further discussion. The motion passed by **voice vote**.

A 69 page booklet, "Oil and Gas Resource Exploration and Development Policies in Idaho", compiled by Zachary Johnson, Philip S. Cook, Jay O'Laughlin, and Kenton Bird, all with the University of Idaho, College of Natural Resources, was distributed to the Committee members at the end of the meeting (see attachment 30).

ADJOURNED:

Chairman Pearce thanked Senator Keough and wished her luck. He then adjourned the meeting at 3:01 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 12, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|--|--|-------------------------------|
| Recognition | Honoring Jordan Price, Page for Senate Resources & Environment | Chairman Pearce |
| Minutes | Approval of Minutes, 2/5/14 | Senator Tippetts |
| Gubernatorial Appointment Considerations | Gubernatorial Appointment Considerations to the Oil and Gas Commission are for the following people: Chris Charles Beck, Sidney "Sid" R. Cellan, Margaret "Marg" Gail Chipman, James S. Classen, and S. Kennard Smith | |
| Gubernatorial Appointment Hearing | Charles H. Correll of Jerome, Idaho was appointed to the Idaho Park and Recreation Board to serve a term commencing June 30, 2013 and expiring June 30, 2019 | |
| Presentation | Director's Annual Report | Nancy Merrill, Director, IDPR |
| Gubernatorial Appointment Hearing | A conference call will be received at 2 p.m. to accommodate Tom Long , Eagle, Idaho appointee to the Outfitters and Guides Licensing Board, to serve a term commencing April 20, 2013 and expiring April 20, 2016. | |
| Gubernatorial Appointment Hearing | C. Wayne Hunsucker , Lucile, Idaho was appointed to the Outfitters and Guides Licensing Board to serve a term commencing April 20, 2013 and expiring April 20, 2016. | |
| Discussion | Possible recommendations to JFAC regarding Governor's budget concerning: IDFG, IDL, IDPR, IDWR, OSC | Chairman Pearce |
| H 406 | Environmental quality, NPDES program | Alex LeBeau, IACI |

COMMITTEE MEMBERS

| | |
|--------------------|--------------|
| Chairman Pearce | Sen Heider |
| Vice Chairman Bair | Sen Tippetts |
| Sen Cameron | Sen Stennett |
| Sen Siddoway | Sen Lacey |
| Sen Brackett | |

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov
Jordan Price, Page

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 12, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: Vice Chairman Bair

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

PAGE RECOGNITION: **Chairman Pearce** announced that the last day for the Pages would be Friday, and he and the Committee wanted to recognize Jordan Price, the Page for the Committee. The Chairman presented Jordan with a letter of recommendation, signed by all the Committee members, and a gift card to Hastings bookstore, also from all the Committee members. **Chairman Pearce** then asked Jordan to talk about his experience here at the Capitol.

Jordan thanked the Chairman and Committee for the letter and gift card. He said that he had learned a lot about how government works and enjoyed being a Page. After he graduates, he plans to work for the Forest Service fighting fires, go on a mission, then on to college.

MINUTES: **Senator Tippetts** made a motion that the Minutes of February 5, 2014 be approved. The motion was seconded by **Senator Stennett**. The motion passed unanimously by **voice vote**.

Chairman Pearce said that consideration would be given to the five Oil and Gas Commissioners whose hearings were held on Monday, February 10, 2014.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Cameron** made the motion for the approval of the Gubernatorial appointment of Chris Charles Beck to the Oil and Gas Commission. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**. Senator Vick will be the floor sponsor of Mr. Beck.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Tippetts** made the motion for the approval of the Gubernatorial appointment of Sidney "Sid" R. Cellan to the Oil and Gas Commission. The motion was seconded by **Senator Cameron**. The motion passed by unanimous **voice vote**. Senator Tippetts will be the floor sponsor of Mr. Cellan.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Brackett** made the motion for the approval of the Gubernatorial appointment of Margaret "Marg" Gail Chipman to the Oil and Gas Commission. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**. Chairman Pearce will be the floor sponsor of Ms. Chipman.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Heider** made the motion for the approval of the Gubernatorial appointment of James S. Classen to the Oil and Gas Commission. The motion was seconded by **Senator Cameron**. The motion passed by unanimous **voice vote**. Senator Heider will be the floor sponsor of Mr. Classen.

GUBERNATORIAL APPOINTMENT CONSIDERATION: **Senator Cameron** made the motion for the approval of the Gubernatorial appointment of S. Kennard Smith to the Oil and Gas Commission. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**. Senator Siddoway will be the floor sponsor of Mr. Smith.

GUBERNATORIAL APPOINTMENT HEARING: **Chairman Pearce** welcomed Charles Correll of Jerome, Idaho who is the Gubernatorial candidate for the Idaho Park and Recreation Board. His appointment is from June 30, 2013 and expires June 30, 2019.

Mr. Correll stated that he has been a lifelong resident of Idaho, growing up in Jerome. He has owned an accounting business for the past 40 years and has been heavily involved in the community. He has served as Mayor of Jerome and also served on the City Council.

Mr. Correll said that Idaho has a lot of assets that are very valuable to us and he is proud to have served on the Park and Recreation Board for the past two years and is looking forward to more.

Senator Siddoway asked for an update on which parks will be improved and which ones might be closed or "dropped". **Mr. Correll** said their primary focus is to keep all the parks open. To save money, they would have to close several and he feels that would have a huge impact on Idaho, so they are concentrating on keeping all the parks open for public use. However, in the future, they will be asking for some capital improvement money for some major repairs. When asked to identify "major repairs", **Mr. Correll** said an example would be the bridge at Ritter Island that has been condemned which needs replacing and/or major repair work done.

Chairman Pearce thanked Mr. Correll for coming today and also for his service on the Board. He then welcomed Director Nancy Merrill, Idaho Department of Parks and Recreation (IDPR) who will present an overview of the agency for the past year.

PRESENTATION: **Director Merrill** introduced the Communications Officer for IDPR, Jennifer Okerlund, who provided a colored booklet containing information about the agency (see attachment 1) and also introduced the Board members: Charles Correll, Chairman; Tom Crimmins; Randy Doman; Susan Buxton; Robert Hansen; and Jean McDevitt, Vice Chair. **Director Merrill** said their mission is "To improve the quality of life in Idaho through outdoor recreation and resource stewardship."

She then presented a PowerPoint program that provided the Committee with a lot of information. There are 30 state parks, from Priest Lake in the north to Bear Lake in the south that touches the Utah border. Service is provided to over 5.3 million park visitors annually. Students that were instructed in boat, ATV/motorbike, snowmobile and avalanche classes numbered 2,500. Over 2,000 miles of trails were maintained and with county partners, over 5,600 miles of snowmobile trails were groomed.

Director Merrill said the agency is responsible for the registration of over 300,000 ATVs, motorbikes, boats and snowmobiles that recreate in Idaho. With the registrations, it generates \$7 million that goes to ten different grant programs that are overseen by a ten citizen advisory committee. Those grants are awarded each year to counties, state, and federal agencies across Idaho. The registration program that collects information and registers all the ATVs, boats, etc. is wearing out and will need upgrading in the near future. This is one of the main issues that they are dealing with at this time, stated **Director Merrill**.

A task force was formed to identify the purpose and goals regarding new software for the registration process. It is to identify issues and process improvements to continue to meet registration program goals and constituent needs. It must maintain a retail based vendor system; it must maintain county DMV sales channels; and move from manual data collection to digital. It also needs to be simple and cost efficient. An outside consultant was hired to evaluate the current system and to give recommendations.

The task force also recommended short and long term goals. The short term goals include:

1. Change owner to operator;
2. Continue process until a new system is identified;
3. Direct the unused portion of administrative fees to help cover costs of system; and
4. Share legislation and intent with the agencies which are impacted.

Long term goals include:

1. Direct a portion of registration fees to cover system upgrade costs;
2. Board to review replacement options and costs; and
3. Board to consider raising registration fees to cover costs.

Director Merrill stated that both the task force and the Board came to some agreements. Those agreements were that the future process must maintain the vendor network, including county DMVs, be convenient, and protect program funding.

Some of the successes in 2013 included the Parks Passport Program which was successfully launched last year. It brought in over \$1 million in gross revenue. By being partners with Idaho Transportation and county DMVs, they are beginning to see success in the sale of the Parks Passport Program. Overnight occupancy increased by four percent and the overall visitation increased by three percent. The agency has further reduced spending by generating new revenue enhancements. Renovation of existing facilities to improve revenue potential include improvements at campgrounds and day use areas at Lake Cascade, campground loop enhancement at Henrys Lake, and entrance fee station installations.

Other revenue enhancements include sale of firewood; rental of paddle boards, canoes, and sand boards; and revised rental calendars for marina slips. Areas of parks are also rented out for weddings, special events, and other year round uses. Another way to reduce costs has been through the volunteer program, which has a full-time volunteer coordinator. This past year, there were over 68,000 hours of volunteer service within the state parks. Another cost-saving area was shifting to electronic payment services and conversion from electricity to natural gas in campground water heaters. Conversion from engines to batteries in park vehicles was also implemented. Trash service has been discontinued and visitors are told that if they "pack it in" to "pack it out".

Partnerships have been strengthened in a very positive way. In Hells Gate Park, park staff has been supplemented by using the Idaho Department of Labor Workforce Investment Act and the Nez Perce County Court Services. Some parks have vending machines, concession items, ice cream sales, and ice machines. The North Face Company has funded a new interpretive program at three state parks known as the "First Time Campus Program". **Director Merrill** said to not forget the partnerships with the Idaho Transportation Department and the county DMVs.

The State Parks Passport Program has been very successful. In the first 12 months, 95,900 passports were sold and that brought in over \$1 million. **Director Merrill** said that they would continue to market the passports this year, focusing on the populated areas, as well as areas close to the parks.

Of the 64 agencies, IDPR ranks 59th in the compensation ratio. When compared nationally, IDPR is ranked last. Costs, especially personnel costs, continue to increase dramatically each year. With every successful stride and every realized success, funds still had to be shifted to cover costs. Funds historically used for capital improvements and infrastructure and maintenance have been reallocated to meet operational needs. **Director Merrill** stated that their dedicated resources are "maxed" out and have been reallocated to keep parks open.

Director Merrill said she met with the Governor and shared with him IDPR's revenue enhancements, passport progress, cost efficiencies, and partnerships. She also shared with him their struggles and identified their most critical needs. The Governor is recommending funding from IDPR's general fund of \$1.8 million to fund those most critical needs. While it certainly helps, it does not replace the \$2 million that was used from the RV Fund to keep the parks open and maintained. **Director Merrill** said the agency has further reduced expenditures, increased fees, and implemented revenue enhancing programs. In spite of all these efforts, they are still relying on the use of \$1.5 million of the RV Fund for use of maintenance as allowed in Idaho Code, Title 67, Chapter 42.

Director Merrill closed her report by saying she and her staff enjoy taking care of the state parks and have worked hard over the past few years, and they take pride in keeping each of these special places open for all who enjoy the great outdoors of Idaho. **Director Merrill** said that she has always believed that if we have the right people, at the right time, and at the right place, we can do wonderful things and we can succeed.

Chairman Pearce thanked Director Merrill for the job she has done. She needs to be congratulated for what she has accomplished and her resilience.

Senator Siddoway said he wished to add his congratulations to Director Merrill for a stellar job. He then asked the Director to list projects that are in much needed repair. **Director Merrill** said the bridge at Ritter Island is a big ticket item - costing about \$500,000 to replace. She said that a few others that come to mind are: In northern Idaho, the Mission and old Parish House are in need of repair, especially a new roof; a request for \$150,000 to improve the septic systems within the parks across Idaho is very much needed; and major repair to some historic buildings located at Harriman State Park.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

A conference call was received from Tom Long, an appointee to the Outfitters and Guides Licensing Board (OGLB). He was appointed to serve a term commencing April 20, 2013 and expiring April 20, 2016. Mr. Long is in southern Chile for the months of December, January, and February and that is the reason for the call, rather than appearing in person as is the usual custom. He stated that if confirmed, this will be his third term. The first term was a learning experience and after serving the second term, he has realized how important licensing is. As he travels, he has learned that other countries have looked to Idaho for leadership in outfitting and guiding.

Mr. Long said it is a great opportunity to serve on the Board, as well as to further develop the tourism aspect of outfitting. When asked what he is doing in Chile, the response was that he assists with the operations of Cascade Kayak School's adventure travel and kayaking trips. He also leads penguin tours and guides fishing and rafting trips. Because it is summer in Chile, Mr. Long moves his entire operation there and some of the activities there are very similar to what he does in Idaho.

Senator Cameron said that earlier this year, there was some controversy regarding some rules instituted by OGLB and inquired as to Mr. Long's thoughts regarding outfitting and guiding for water fowl, ducks, and turkeys. **Mr. Long** responded by saying that speaking to any of the licensed activities, he is a strong believer that having help in protection of the public is important. In dealing with the rules to clarify how to handle the outfitters that are providing that service, he feels is a good thing. The public at large benefit from the standards and from quality of care. **Senator Cameron** said he hoped that he is not hearing Mr. Long say that private individuals should not have the right to raft on their own, even though they may not be as experienced as a guide. **Senator Cameron** said that another concern that has been brought up is: Does an individual, on his own private property, have the right to allow someone to hunt ducks or turkeys on his property without being an outfitter or guide?

Mr. Long responded by saying that private lands should not be excluded, but there needs to be some caution regarding certain hazards that come about by being on private land. To have a restriction to ensure safety is a good thing to have in protecting the public.

Senator Tippetts inquired if it was a requirement of OGLB to belong to a certain political party. **Mr. Long** stated that it is not a requirement.

Senator Siddoway inquired about the division of power if confiscation of assets is involved. **Mr. Long** said there is a lot of cross-agency work. If OGLB is aware of a violation, the enforcement chief is advised, then he coordinates with whatever agency is appropriate. There is a definite protocol to follow, if in fact there is a violation. As far as Mr. Long could recollect, he has not been aware of any confiscations by OGLB in the past six years.

Chairman Pearce thanked Mr. Long for the interview and said that voting would be taken up next Monday.

He then asked Mr. Hunsucker, also a nominee for OGLB, to speak to the Committee.

Mr. Wayne Hunsucker is from Lucile, Idaho and is a licensed architect. His term commenced April 20, 2013 and will expire April 20, 2016. He represents the general public and has served on the Board since 1998. The Board is made up of three outfitters, one representative from the Idaho Department of Fish and Game (IDFG), and one representing the public. He would like to continue his service with the Board until they have a resolution to the current negotiated rulemaking process that they are involved in.

As a licensed architect, Mr. Hunsucker was a senior partner in Hummel Architects from 1976 to 2005, when he semi-retired. He has since had free time to serve on the Board. He is also a fisherman, hunter, snowmobiler, and also enjoys camping and other outdoor activities.

Mr. Hunsucker said that he would like to offer some background information regarding the rulemaking process. In 1989, the Board adopted an informal policy placing a moratorium on accepting applications from landowners and outfitters for waterfowl and turkey outfitting opportunities. This was in response to concerns from IDFG and sportsmen's groups over the possible loss of access to private landowners' property if additional licenses were issued.

This moratorium worked fine, according to **Mr. Hunsucker**, until approximately two years ago when the Board began to be pressured by some landowners and some outfitters to once again accept and address new applications. The Board's attorney advised them that should they be challenged in court, the moratorium stance most likely could not be successfully defended. The Board decided to address the issues. Jointly, with IDFG, they began a series of six workgroup advisory meetings over a period of one and a half years. The Advisory Group was made up of representatives of the Idaho Waterfowl Association, the Idaho Turkey Federation, ISCAC, private landowners, and the outfitting industry. These representatives were voting members. The non-voting members included OGLB, represented by Board members Mr. Alex Irby and himself; an IDFG Deputy Director and additional staff. The group outlined and addressed a lot of issues and developed six options to move forward with, but no consensus was reached that covered everyone's concerns. The Board decided to peruse the negotiated rulemaking process, and a draft rule was developed based on the final report. Five public hearings were held throughout the State. They are now in the process of compiling the comments and answering questions posed to them from those meetings.

In 1961, a statute was put in place giving authority to license outfitters for game and birds. It has been held in court since 1992 that OGLB has the authority to license private landowners as outfitters. At this time, there are two groups that oppose each other. There is a House bill that would completely exempt landowners from OGLB activities. The other side of the story, according to **Mr. Hunsucker**, are the waterfowl and turkey groups wanting no outfitting at all. He said the Board has been pushed and pulled to the point now where they are caught in the middle. At the present time, he feels waterfowl and turkey outfitting is a licensing activity and can be done on private lands.

Senator Cameron inquired as to why Mr. Hunsucker, who is appointed to represent the people, has a conflict by ignoring the public's opinion in a survey that showed 68 opposing the rule and only five in favor of it. **Mr. Hunsucker** responded by saying the Farm Bureau assisted OGLB in putting out a survey to 4,000 of their members. The return was a 23 percent response, with no outcry against what OGLB was doing.

Mr. Hunsucker feels that what is asked of him is to look at the broad spectrum of all of the issues. As he has watched this develop, his position is that there is room, somewhere within the state of Idaho, for outfitting of waterfowl and turkey. OGLB's policy is to take each case on an individual basis, analyze it, look at any conflicts that might be involved with that outfitter's application and make a judgment on that application.

Senator Cameron said his understanding of what Mr. Hunsucker said is that he acknowledged the majority of people who commented on the rule and who were opposed to the rule; he then took information from a separate survey from a separate entity that was more balanced, so he felt it was justified to support the rule and asked if that was a correct assumption. **Mr. Hunsucker** responded in the affirmative.

Senator Stennett said a survey done by the Farm Bureau may not be reflective of the public-at-large and she asked for an explanation. **Mr. Hunsucker** replied that he didn't feel they were a "lesser" group than the sportsmen, and out of their responses, there were no negative comments.

Chairman Pearce thanked Mr. Hunsucker for talking to the Committee and said voting would take place next Monday.

Mr. Hunsucker asked the Chairman if he could address the question brought up by Senator Siddoway regarding confiscation of property. **Chairman Pearce** gave his approval. **Mr. Hunsucker** said that OGLB has no authority to confiscate any property; however, they do work with other agencies, and unless it is a licensed outfitter coming before them, they have no authority over them and rely on prosecutors and prosecuting attorneys in the counties to hear those cases.

Chairman Pearce said due to time constraints, they would not have a discussion on recommendations to JFAC. If any Committee member has concerns about the budget that involves resources and the environment, he asked that they contact him after the meeting.

Chairman Pearce said the last item on today's agenda is to hear **H 406** and that will be presented by Alex LeBeau, Director of the Idaho Association of Commerce and Industry (IACI).

H 406:

Mr. LeBeau said he wanted to introduce the chairman of the IACI Environment Committee, Alan Prouty from the Simplot Corporation. Mr. Prouty has been very involved in dealing with the issue of the National Pollution Discharge Elimination System (NPDES). This is the last major environmental program that Idaho does not retain primacy over and it is something the Legislature has studied for 15 years with the Department of Environmental Quality (DEQ). **Mr. LeBeau** said IACI took this issue up last spring and felt it was the right time to go forward with it.

This legislation will start the process for Idaho to seek primacy for NPDES. Primacy means that Idaho would be taking over as the administrator and enforcement authority for the permits associated with this program. Currently there are just four states that do not have primacy.

In Sections 1 and 2 of the bill, it deals with penalties associated with this program and there are two types of penalties - civil enforcement and criminal penalties. Section 3 deals with legislative findings and purposes and Section 4 is the approval of the state NPDES program. This would give DEQ the authority to promulgate rules and seek primacy on September 1, 2016.

Mr. LeBeau said it was important to note that on page 7, number 5, it states that the director, as appropriate, shall establish agreements with other state agencies with expertise to administer the NPDES program. There are two other elements associated with the language that are important and are not in this bill, but will be in a future piece of legislation. The first deals with confidential business information. The other element is the hearing process. NPDES does not allow anyone who receives an income from anyone who has a NPDES permit to sit in a judicial role over any appeals associated with that.

The initial cost associated with this program is \$300,000 to be paid by the State. Estimates at full build out will cost approximately \$2.5 million, and **Mr. LeBeau** said it is their hope that the fees will be shared by the State, federal, and fee based funding. He said there are concerns associated with those fees, but it will be worked out in the rule processing.

Mr. LeBeau posed the question - "What is the benefit of having a state-run NPDES program?" He said it would be having local control and better flexibility. DEQ would provide control under a variety of other areas for implementing federal criteria.

TESTIMONY:

Mr. LeBeau said that he was asked by Mr. Norm Semanko, Executive Director of the Idaho Water Users Association, to express their support of **H 406**.

ADJOURNED:

Chairman Pearce said that the Committee was out of time and **H 406** would be continued on Friday, February 14. He then adjourned the meeting at 3:01 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:00 P.M.
Room WW55
Friday, February 14, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|-----------------------|--|-------------------|
| | NOTE THE TIME CHANGE!! | 1:00 p.m. |
| H 406 | Environmental quality, NPDES program Continuation of discussion | Alex LeBeau, IACI |

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippetts
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov
Jordan Price, Page

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, February 14, 2014

TIME: 1:00 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Senators Cameron, Siddoway, Brackett, Heider, Tippetts and Lacey

ABSENT/ EXCUSED: Vice Chairman Bair and Senator Stennett

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:10 p.m. and said that today's meeting would be to continue the discussion of **H 406**.

TESTIMONY: **Mr. Curt Fransen**, Director of the Idaho Department of Environmental Quality (DEQ), testified regarding **H 406**. He stated that Mr. LeBeau outlined on Wednesday the major benefits and challenges of the State seeking Primacy for the State. **Director Fransen** said that those benefits and challenges have been examined by the Legislature, prior administrations, and industry for over a decade. At Legislative direction, DEQ has created reports and analysis regarding the issue in 2001, 2002 and 2005. **Director Fransen** said his role today is not to advocate for or against this legislation, but he wants to acknowledge that the Idaho Association of Commerce and Industry (IACI) sought DEQ's input into the drafting of this bill and into the development of the information regarding the cost, personnel, resources, time and steps necessary to implement the directive this legislation would provide to DEQ.

Director Fransen said he appreciated that opportunity of being a resource to IACI and he would like to be a resource to this Committee. He stated that DEQ is currently implementing a number of State Environmental Programs pursuant to State statutes and rules. These programs meet the minimum requirements of most Federal Environmental Acts, including: the Clean Air Act; the Resource Conservation Recovery Act; the Safe Drinking Water Act; and the Underground Tank Storage Program. Idaho has Primacy to implement these Acts in Idaho in lieu of EPA implementing those Acts in Idaho. Implementation of those State programs is an exercise of State sovereignty and our authority to protect the health of our citizens and to manage our own natural resources. Obtaining Primacy over this particular program would be consistent with the approach that Idaho has taken to obtain Primacy as to these other federal major environmental programs.

Director Fransen said he also wanted to note the costs of the personnel estimates provided in the Statement of Purpose of **H 406** are reflective of and consistent with the past analysis that DEQ has performed and also that of the Idaho Association of Cities. Funding will be a significant challenge. The legislation authorizes the Board of DEQ to negotiate a rule making to not only establish the program requirements, but to also establish reasonable fees to support the program. Securing adequate funding to run this program is critical not only to obtaining the authorization, but to ensure that we, as a State, gain the benefits of the program that has been outlined and to minimize the amount of conflict with the federal government and to minimize the amount of federal oversight. **Director Fransen** stated that if we can only do

this program halfway, then we shouldn't do it. It needs to be done as a full, robust program to ensure that Idaho gets the full benefits of the program.

Director Fransen said the Statement of Purpose also outlines the implementation tasks and the schedule. It is consistent with their past analysis of other states that have recently gone through this process, particularly Alaska. Implementation is going to take awhile and the benefits will be in the future.

The last point **Director Fransen** said he wanted to make is that to obtain State Primacy, the issue to enforce these permits will not resolve or relieve all the many concerns or frustrations that are experienced by the regulated entities concerning the current process. State issued permits must still protect water quality and must meet Idaho's water quality standards, just as they do today. State permitting process must provide for public review and input into the drafting of the permits can provide an appeal process to the public to contest the provisions in the permits or the actual issuance of the permits. EPA will still have an oversight role to ensure that the State's program is consistent with the Federal Clean Water Act program.

Director Fransen stated that from his perspective, **H 406** simply initiates the process of establishing the support of the State's permitting program. There will be additional pieces of legislation, in the coming years, that will be necessary to complete this process. In summary, **Director Fransen** said this legislation is the first of many steps and will be significant legislative direction, oversight, and support necessary to finalize this process.

Senator Cameron inquired if Director Fransen had helped draft the fiscal note and he responded in the affirmative. **Senator Cameron** then said that he was trying to link the information on the fiscal note with a provision in the bill, that at full build out in 2022, the amount would be about \$2.5 million and asked how the \$2.5 million would be delegated and distributed between federal, state, and fee based local units of government. **Director Fransen** replied that his understanding that the only place the funding is discussed in the bill is the authority of the Board to establish fees to fund the program. **Senator Cameron** said then the only State involvement would be in determining if the fees are appropriate and an appropriate split would be during the administrative rules procedure as a proposed fee rule. He asked if that was a correct assumption. **Director Fransen** said that was correct.

TESTIMONY:

Mr. Ken Harwood, Executive Director of the Association of Idaho Cities (AIC), provided a letter (see attachment 1) to the Committee, and also spoke regarding **H 406**. He stated that there is an attachment to the letter that he has distributed which lists the Idaho municipal NPDES permits. AIC supports **H 406** and they see real value in state administration of the NPDES program.

TESTIMONY:

Ms. Linda Lemmon, Executive Secretary for the Idaho Aquaculture Association (IAA), spoke in opposition to **H 406**. She said that the Board of Directors of IAA asked her to present their testimony.

IAA represents public and private producers, processors, and support industries; however, today she will only speak on behalf of the commercial producer members (public hatcheries operate for noncommercial reasons) who have been opposed to state NPDES primacy since it was first brought before the Legislature in 2005. Opposition from commercial producers centers on perceived benefits and costs. They don't believe the perceived benefits outweigh the costs for their industry, and are not convinced that DEQ will truly have as much flexibility as it is being credited it would gain under state primacy.

Ms. Lemmon addressed some of the benefits of the NPDES program that they disagree with. As far as processing permits in a more timely fashion, there is no guarantee that DEQ will take any less time to process a permit under state primacy than EPA. Pollution trading is another benefit being promoted under state primacy, but aquaculture permits include some pollution trading ability already. Implementation of water quality trading is already governed by existing Clean Water Act requirements, by EPA regulations and Idaho's Water Quality standards. Another benefit being promoted is that it will be less costly for the applicant. **Ms. Lemmon** said the benefits don't outweigh the costs. A copy of her testimony is on file (see attachment 2).

**WRITTEN
TESTIMONY:**

Clear Springs Foods submitted written testimony in support of **H 406** through Mr. Alex LaBeau (see attachment 3).

TESTIMONY:

Mr. Norm Semanko, Executive Director, Idaho Water Users Association, testified in support of **H 406**. He said they worked with EPA and DEQ on the permit. On the EPA side, they felt that they had no meaningful input into what the permit would say. With DEQ, it was a give and take and he said that he understood where they were coming from. As for the cost issue, **Mr. Semanko** said his group is not unsensitive to the fee issue.

TESTIMONY:

Mr. Brent Olmstead, lobbyist for the Milk Producers of Idaho, said they support **H 406**. They like the ability to have input into the general permits, how they are written and what constitutes that permit. The provision for an agreement between DEQ and other agencies is beneficial for his industry. He said that EPA has a limited knowledge of agriculture and DEQ has the ability to work with the Department of Agriculture.

Senator Siddoway has a concern with the amount of the fines and asked Mr. Olmstead his opinion. **Mr. Olmstead** said that one can go into consent order and negotiate those fines and most times, the fines do not come within the levels that are in the legislation. He stated that his industry is comfortable with that system.

MOTION:

Senator Tippetts made the motion that **H 406** go to the floor with a do pass recommendation. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**. **Chairman Pearce** will be the sponsor of this bill.

Additional handouts given to the Committee included: IACI - Discussion Points (see attachment 4) and DEQ - Decision Analysis Report 3 (see attachment 5).

ADJOURNED:

Chairman Pearce adjourned the meeting at 2:01 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 17, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|---|--|--------------------|
| Gubernatorial Appointment Consideration | Charles H. Correll , Jerome, appointed to the Idaho Park and Recreation Board | |
| Gubernatorial Appointment Consideration | Tom Long , Eagle, appointed to the Outfitters and Guides Licensing Board | |
| Gubernatorial Appointment Consideration | C. Wayne Hunsucker , Lucile, appointed to the Outfitters and Guides Licensing Board | |
| <u>S 1255</u> | Mineral rights, conveyance | Senator Tippets |
| <u>S 1279</u> | Irrigation districts | Norm Semanko, IWUA |
| <u>S 1280</u> | Irrigation districts | Norm Semanko, IWUA |
| <u>S 1281</u> | Irrigation districts | Norm Semanko, IWUA |
| <u>S 1344</u> | Flood control | Norm Semanko, IWUA |
| Gubernatorial Appointment Hearing | A conference call will be received at 2 p.m. to accommodate Craig Hill , Priest Lake, Idaho appointee to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2013 and expiring July 24, 2016. | |

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippets
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 17, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:** None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m. He stated that the first order of business would be to consider the appointments that were heard last Wednesday.

GUBERNATORIAL APPOINTMENT: **Senator Cameron** moved to send the Gubernatorial appointment of Charles H. Correll to the Idaho Park and Recreation Board to the floor with a recommendation that he be confirmed by the Senate. **Senator Heider** seconded the motion. The motion carried by **voice vote**. The floor sponsor will be Senator Patrick.

GUBERNATORIAL APPOINTMENT: **Senator Tippetts** moved to send the Gubernatorial appointment of Tom Long to the Outfitters and Guides Licensing Board to the floor with a recommendation that he be confirmed by the Senate. **Vice Chairman Bair** seconded the motion. The motion carried by **voice vote**. The floor sponsor will be Senator Siddoway.

GUBERNATORIAL APPOINTMENT: **Senator Heider** moved to send the Gubernatorial appointment of C. Wayne Hunsucker to the Outfitters and Guides Licensing Board to the floor with a recommendation that he be confirmed by the Senate. **Vice Chairman Bair** seconded the motion.

During the discussion, **Senator Cameron** said that Mr. Hunsucker is the representative for the public and at his hearing, **Senator Cameron** said that he questioned him regarding rules on waterfowl and turkey guiding. In Mr. Hunsucker's comments, he referred to a survey done by the Idaho Farm Bureau and implied that they were involved. **Senator Cameron** stated that he has since visited with the Farm Bureau, at their request, because they were concerned that they had been misportrayed. He asked the Chairman (or someone) to deliver a message to the Outfitters and Guides Licensing Board that they need to be a little more responsive to the public.

The motion carried by **voice vote**. The floor sponsor will be Senator Nuxoll.

WITHDRAWAL OF S 1255: **Senator Tippetts** stated that he wished to withdraw his bill, **S 1255** today, and asked that it be heard at a later date.

WITHDRAWAL OF S 1279: **Mr. Norm Semanko**, Idaho Water Users Association (IWUA) also requested that **S 1279** be held until a future date.

- S 1280:** **Mr. Norm Semanko**, IWUA, presented **S 1280**. He said the purposes of this legislation are to: (1) require each irrigation district director to meet director qualification requirements during the term of office; (2) require each director to notify the other directors if he will no longer meet those requirements during his term; (3) allow a disqualified director to serve until a successor takes office if necessary to conduct the district's affairs; (4) authorize the directors to declare a vacancy in the office of director; (5) conform the bonding requirement for an appointed director to the bonding requirement for an elected director; and (6) provide that an appointed director has all of the rights, powers, liabilities, duties and obligations of the director's office.
- MOTION:** After a brief discussion, **Senator Cameron** made the motion to send **S 1280** to the floor with a **do pass** recommendation. The motion was seconded by **Vice Chairman Bair**. The motion passed by unanimous **voice vote**. The floor sponsor will be Senator Cameron.
- S 1281:** **Mr. Norm Semanko**, IWUA, presented **S 1281**. He stated that this legislation is to clarify the irrigation district code by correcting all instances when an irrigation district director is mistakenly referred to as an officer.
- MOTION:** **Vice Chairman Bair** made the motion to send **S 1281** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Stennett**. The motion passed by unanimous **voice vote**. The floor sponsor will be Vice Chairman Bair.
- S 1344:** **Mr. Norm Semanko**, IWUA, presented **S 1344**. He said this legislation has three purposes. The first is to clarify and further define a flood control district's authority to protect life and property from injury or damage resulting from flooding. The second is to authorize district commissioners to fix compensation and expense reimbursement, up to prescribed limits. Last, it will clarify a flood control district's permitting requirements before responding to a flooding emergency.
- Senator Siddoway** made the motion to send **S 1344** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Heider**. The motion passed by unanimous **voice vote**. The floor sponsor will be Senator Siddoway.
- GUBERNATORIAL APPOINTEE HEARING:** At precisely 2 p.m., the Committee finished with the bills on the agenda and a conference call was received from **Mr. Craig Hill** of Priest Lake, Idaho. He was reappointed to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2013 and expiring July 24, 2016. He has served on the Commission for the past six years and is happy to be of service to the community. **Mr. Hill** said that he is concerned with the water quality in Idaho in general, but specifically Priest Lake and Lake Pend Oreille. Mr. Hill will be leaving very soon to spend a month in Thailand.
- Mr. Hill** has lived at Priest Lake for 54 years. He is a graduate of Priest River High School and attended the University of Idaho and Eastern Washington University. At the present time, he is the owner of Hill's Resort (started by his father), is married with two children, and is the president of the Priest Lake Golf Course.
- Other community organizations that he is a member of include: Chamber of Commerce, past President; West Priest Lake Fire Department, past Commissioner; West Bonner County Groomer Advisory Board; Kalispel Bay Water and Sewer District, past Board member; member of the Lakes Commission; and a past Cub Scout leader.
- The advantage of Priest Lake is that it is so clear and pristine. When asked what the biggest issues they are facing, **Mr. Hill** replied that Eurasian milfoil and quagga mussels are high on their list. There are also some Fish and Game issues - lake trout and bull trout, as well as the Clark River delta.

Senator Heider said a lot of money is being spent through the Department of Agriculture to control Eurasian milfoil. It is also being pulled by the roots by divers a few days a year, and he inquired which method is the most effective and how is the eradication progressing. **Mr. Hill** replied that Priest Lake has a limited amount of Eurasian milfoil and they are containing it by the divers. However, he feels that a herbicide would be more effective. That method is being used on Lake Pend Oreille and the Pend Oreille River and is successful in curbing its growth, slowing it down, and getting their arms around the situation. Only by herbicide application are they able to do this. **Mr. Hill** stated that the State needs to keep vigilant at the border with regards to the quagga mussel.

Senator Tippets inquired about the resort that Mr. Hill owns. **Mr. Hill** said it was started by his father in 1946 with just a cabin at Priest Lake, with no electricity or running water. It has now grown to 52 units. The lodge has a cocktail lounge and a restaurant; the marina has 75 slips for boats; and there is an 18 hole golf course. It's a typical family type vacation resort as people return year-after-year and stay in the same cabins. There are winter sports and activities as well as the standard summertime sports and activities. **Mr. Hill** stated that it is a family operation - brother, sister, wife, and children. **Senator Tippets** told Mr. Hill that it sounded like he has a wonderful resort and then thanked him for serving on the Commission.

Senator Lacey questioned Mr. Hill's answer to the number ten question on the questionnaire, regarding conflict of interest (due to the resort's use of the lake and potential water issues). **Mr. Hill** said that he doesn't view it as a conflict and would do whatever he had to, to protect the lake.

Senator Siddoway inquired about the sewage system for the cabin sites around the lake, as well as businesses located there, and asked if it has created water quality problems. **Mr. Hill** replied by saying in the early 1970s, the first sewer district was created, then other areas were added. In the late 1980s, DEQ conducted a study. At this point, about 90 percent of the residents of the lake have had a sewer system put in. As far as the water quality of the lake, the sewer system has certainly helped to clean up the lake. **Senator Siddoway** then asked about the lake level and inquired how the Commission works with the electric company when they want to change the level. **Mr. Hill** said that the Commission was created for that reason, to not only protect the water quality, but to also protect the water quantity. The real controversy comes with Lake Pend Oreille and Pend Oreille River.

Mr. Hill's understanding of the situation is that they wanted to be able to take advantage of the fluctuations in the weather and to capture a weather event and raise the level of the lake whenever there was a big rain storm or snow storm and be able to use the water to make electricity. The Commission gives their input where they would like to see the levels; however, there is a group that makes the final decision. It seems that as the years go by and the more education that they have, they have developed a level that they are happy with.

Chairman Pearce thanked Mr. Hill for making the call on time and for the information that he has provided the Committee. The vote will take place on Wednesday.

INTRODUCTION OF PAGE:

Chairman Pearce introduced the Committee's new Page, Lydia Woodland. He asked her to speak to the Committee regarding her schooling and activities. **Lydia** said she is from Burley and has two sisters that were Pages for the Senate. She would like to major in accounting when she goes to college.

INTRODUCTION: **Senator Siddoway** introduced and welcomed Rigby's Mayor, Jason Richardson, who has brought a delegation with him from a charter school. **Chairman Pearce** also welcomed them to the meeting.

ADJOURNED: **Chairman Pearce** thanked the Committee for their work, then adjourned the meeting at 2:25 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 19, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|---|--|----------------------------------|
| Gubernatorial Appointment Consideration | Gubernatorial appointment consideration will be given to Craig Hill , Priest Lake, Idaho who was appointed to the Lake Pend Oreille Basin Commission to serve a term commencing July 24, 2013 and expiring July 24, 2016. | |
| S 1346 | State Lands | Senator Nonini |
| S 1276 | Fish and Game | Chairman Pearce |
| S 1278 | Fish and Game | Senator Patrick |
| H 392 | Water quality | Barry Burnell, DEQ |
| Presentation | Idaho Soil & Water Conservation Commission | Terri Murrison, Administrator |

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

| | |
|--------------------|--------------|
| Chairman Pearce | Sen Heider |
| Vice Chairman Bair | Sen Tippetts |
| Sen Cameron | Sen Stennett |
| Sen Siddoway | Sen Lacey |
| Sen Brackett | |

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov
Lydia Woodland, Page

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 19, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: Senators Brackett and Heider

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m. and said the Committee would consider the appointment of Craig Hill to the Lake Pend Oreille Basin Commission.

GUBERNATORIAL APPOINTMENT: **Senator Siddoway** moved to send the Gubernatorial appointment of Craig Hill to the Lake Pend Oreille Basin Commission to the floor with a recommendation that he be confirmed by the Senate. **Vice Chairman Bair** seconded the motion. The motion carried by unanimous **voice vote**. Senator Keough will be the sponsor of Mr. Hill.

S 1346: **Senator Nonini** presented **S 1346**. He said the purpose of the amendment to Idaho Code § 67-4201 is to help preserve the float homes on Hidden Lake. The Idaho Department of Parks and Recreation (IDPR) presently leases moorage sites on Hidden Lake near Heyburn Park to 23 float home owners. The float homes have historic values worthy of preserving. The lessees have the opportunity to obtain financing to construct a land based sewer system to serve the leaseholds. The system will be transferred to the State upon completion at no cost to the State. As part of incurring approximately \$1 million in debt to construct the system, the lessees request some certainty as to a lease term of a length longer than ten years. This proposed amendment would accomplish those objectives.

Sen. Nonini provided a letter (see attachment 1) from the office of the Attorney General that had prepared an analysis of **S 1346**. It states that there are no provisions in the Idaho Constitution restricting the Legislature's ability to authorize such leases. In terms of potential federal restrictions the only state park with float home leases is Heyburn State Park, which was granted to the State by a 1911 patent that requires the park to be "held, used, and maintained as a public park, and for no purpose inconsistent therewith".

Vice Chairman Bair questioned the age of the boats lasting as long as the 30 year loan. Also, if boats are removed, would their share of the cost go to other boat owners and become cost prohibitive? **Senator Nonini** said some float homes are old and well-maintained and others have not been as well maintained and the costs of the sewer are shared.

TESTIMONY: **Mr. Tim Green** stated that he is from Moscow and is representing the Float Home Owners Association. There are 23 float homes that are located within the 8,000 acre Heyburn State Park. The owners are in support of the legislation, which will greatly facilitate the financing. When the sewer is completed, **Mr. Green** said it would then be transferred to the State without any cost.

TESTIMONY: **Mr. John Magnuson**, an attorney from Coeur d'Alene, is also representing the 23 float home owners through an association. The newest float home was used during World War II as a recreational area for service men. The oldest home dates back to about 1900 and has the original cedar floats. If repair is needed, it would be greatly facilitated due to the fact that the owner will have the certainty of both the continual lease and the financial obligation.

Mr. Magnuson said that what they proposed regarding the lease was that it would be 30 years under terms and conditions that the Idaho Land Board deems appropriate. It is not an automatic entitlement. What they have been discussing is a ten year term with two ten year renewal periods, provided they are in compliance.

TESTIMONY: **Mr. Keith Hobbs**, Administrator of Operations for the Park, said the Department has no objections that are specific to the float home owners.

Senator Nonini said if the Committee finds it acceptable to pass **S 1346**, he would like it to be sent to the 14th Order for amending to have an emergency clause written in.

MOTION: **Vice Chairman Bair** made the motion to send **S 1346** to the 14th Order for amendment. The motion was seconded by **Senator Siddoway**. The motion passed by unanimous **voice vote**. Senator Nonini will be the sponsor of the bill.

PASSING OF GAVEL: Chairman Pearce passed the gavel to Vice Chairman Bair.

S 1276: **Chairman Pearce** shared information from a letter that was sent to the Pro Tem by an out-of-state organization complaining because the Idaho Department of Fish and Game (IDFG) offers free tags to certain qualified veterans to hunt in Idaho. Their group could not meet the qualifications, so their applications were not accepted. As a result of that letter, legislation was drafted. The bill does assist both in state and out-of-state veterans. The Chairman then deferred his time to Ms. Sharon Kiefer, IDFG Deputy Director.

TESTIMONY: **Ms. Kiefer** said the IDFG administers a program to allow qualified organizations to apply for a Disabled Veterans Special Big Game Hunt Tag. The parameters of this program are outlined in Idaho Code § 36-408(7), which includes the definition of a "qualified organization". She provided a copy of the application for this special tag, along with her testimony, to the Committee (see attachments 2 and 3).

Ms. Kiefer said that in January, they received an application for one of these tags from the Fort Sherman Chapter of the Disabled American Veterans, a 501(c)(4) organization. Because they did not meet the statutory definition of "qualified organization", the IDFG could not accept their application. The Department was not able to fix this issue with our own legislative proposal because they were beyond the time window for executive agency proposals.

Ms. Kiefer encouraged the Chapter to contact their legislators. They followed through and the result is **S 1276** to add 501(c)(4) IRS status to the qualified organization definition.

Ms. Kiefer stated that the Fish and Game Commission supports this action and IDFG requests the Committee's "do pass" for **S 1276**.

MOTION: **Senator Tippetts** moved to send **S 1276** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Siddoway**. The motion passed by unanimous **voice vote**. Chairman Pearce will be the sponsor of the bill.

**PASSING OF
GAVEL:**

Vice Chairman Bair passed the gavel back to Chairman Pearce.

S 1278:

Senator Patrick presented **S 1278**. This bill revises provisions of eligibility and fees for the nonresident disabled American veterans hunting license and certain tags by rescinding the requirement that a nonresident disabled American veteran (DAV) must hunt in association with a qualified organization to be eligible for a reduced fee hunting license and certain tags. Reduced fees for eligible individuals are aligned with fees for nonresident junior hunters, which is a substantial reduction from adult nonresident fees. The revisions will simplify hunting license and tag purchase by nonresident DAVs.

TESTIMONY:

Ms. Kiefer said that in 2011, the Legislature passed H 143. That bill created a framework for nonresident DAVs who were hunting "in association" with a qualified organization and who met disability criteria similar to resident DAVs, were then eligible for a reduced fee hunting license and reduced fee deer, elk, turkey, and bear tags.

Ms. Kiefer stated that H 143 caused a lot of confusion among the nonresident DAVs and many qualified organizations. **Ms. Kiefer** said that she gives Senator Patrick a lot of credit to be willing to back up and try again to find a framework that works for IDFG and for nonresident DAVs.

S 1278 would drop the requirement for a nonresident DAV to have an association with a qualified organization to be eligible for a reduced fee hunting license and certain tags. A new nonresident DAV Hunting License would be created with the same fee as the reduced fee nonresident Junior Mentor Hunting License. The current adult nonresident fee for a hunting license is \$153.00 and the nonresident Junior Mentor Hunting License is \$30.00. Nonresident DAV would still need to document their 40 percent or greater disability, similar to resident DAV but these customers would only have to provide the disability rating once, just like a resident customer to obtain a disability status on their license profile.

Ms. Kiefer said that she personally does a lot of the document review and speaks to many of the nonresident DAV. She can attest that **S 1278** truly represents a substantial improvement in their customer service and removes barriers to hunt for these DAVs. The Fish and Game Commission supports this bill and the IDFG requests the Committee's "do pass" vote. A copy of Ms. Kiefer's complete testimony is on file (see attachment 4).

TESTIMONY:

Ms. Tamara Mackenthun, Deputy Administrator, Division of Veteran Services, told the Committee that the phone calls that Ms. Kiefer doesn't get, she gets. She also stated that this issue is very confusing and they strongly support **S 1278**.

MOTION:

Senator Cameron moved to send **S 1278** to the floor with a **do pass** recommendation. The motion was seconded by **Vice Chairman Bair**. The motion passed by unanimous **voice vote**. Senator Patrick will be the sponsor of this bill.

H 392:

Presenting **H 392** was **Mr. Barry Burnell**, Director of Water Quality with the Department of Environmental Quality (DEQ). He said the purpose of this legislation is to amend the Idaho water quality standards provision regarding insignificant degradations of water quality that are exempt from Tier II antidegradation review. The current provision, commonly referred to as the de minimus exemption, was disapproved by the EPA as inconsistent with the Clean Water Act. If a new de minimus exemption is not established, the workload and costs of DEQ will increase because of those seeking discharge permits.

TESTIMONY:

Testifying in favor of **H 392** was **Mr. Norm Semanko**, Executive Director, Idaho Water Users Association.

TESTIMONY: Testifying in favor of **H 392** was **Mr. Alex LeBeau**, Idaho Association of Commerce and Industry.

WRITTEN TESTIMONY: **Mr. Ken Harward**, Executive Director, Association of Idaho Cities, submitted written testimony supporting **H 392**. A copy of the letter is on file (see attachment 5).

MOTION: **Senator Tippetts** moved to send **H 392** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Siddoway**. The motion passed by unanimous **voice vote**. Senator Tippetts will be the sponsor of the bill.

CANCELLATION OF PRESENTATION: **Chairman Pearce** apologized to Ms. Murrison for not having enough time for her to present her presentation to the Committee today. He asked her to reschedule her presentation with the Committee Secretary.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:50 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 24, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|------------------------|---------------------------------|---|
| Presentation | Sage Grouse/Raven Project | Virgil Moore, Director, IDFG; Mike Carrier, US Fish & Wildlife Services; Todd Grimm, Wildlife Services. |
| S 1279 | Irrigation Districts | Norm Semanko, IWUA |
| H 424 | Irrigation Districts | Norm Semanko, IWUA |
| H 425 | Water Districts | Norm Semanko, IWUA |
| H 371 | Forest Products Commission | Betty Munis, FPC |
| H 372 | Lands, Department of | Eric Wilson, IDL |
| H 373 | Oil/gas Conservation Commission | Tom Schultz, Director, IDL |

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

| | |
|--------------------|--------------|
| Chairman Pearce | Sen Heider |
| Vice Chairman Bair | Sen Tippetts |
| Sen Cameron | Sen Stennett |
| Sen Siddoway | Sen Lacey |
| Sen Brackett | |

COMMITTEE SECRETARY

Juanita Budell
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Lydia Woodland, Page

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 24, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

PRESENTATION: **Chairman Pearce** said today's presentation is about the sage-grouse/raven project. He then referred to a handout (see attachment 1) referencing last year's S 1171. On page 4, Section 3, he read: "It is the intent of the Legislature that the Department of Agriculture work together with the Department of Fish and Game to fund up to \$100,000 for a project to evaluate and monitor the impacts of raven control on sage-grouse survival." He stated that the Committee asked to do a follow-up on the intent language of the agriculture appropriation last year.

SPEAKER: **Mr. Virgil Moore**, Director of the Idaho Department of Fish and Game (IDFG), spoke first on behalf of his Department. He stated that the legislative intent for this fiscal year, starting in July, was to work with the Department of Agriculture to implement a sage-grouse/raven evaluation and implement some control of ravens in the State. **Director Moore** introduced Mr. Don Kemner, Sage-grouse Coordinator for IDFG, and asked for the Chair's permission for Mr. Kemner to provide the presentation.

SPEAKER: **Mr. Kemner** provided a handout (see attachment 2) listing their actions taken since they were given this directive. First, they identified three potential areas for raven control management. They are: the West Central, Curlew Valley, and northern INL and Birch Creek Valley (see map on reverse side of handout). They used the steps in the predation section of the Conservation Plan for Greater Sage-grouse in Idaho (2006) to evaluate these areas and determined that further management may be appropriate for those areas.

Mr. Kemner said they went to the United States Department of Agriculture, Animal Plant Health Inspection Service (USDA APHIS) Wildlife Service and asked if it was feasible for them to work in those areas over the next two years. They made their evaluation and determined that they could work in those three areas over the next two years, 2014 and 2015. IDFG submitted an application to the U.S. Fish and Wildlife Service asking for a permit allowing the taking of ravens in the name of sage-grouse management. The permit asked for up to 1,750 birds, 50 nests, and 250 eggs annually for two years - 2014 and 2015. If the permit is issued, it would have to be renewed each year. Wildlife Services and IDFG were working under the assumption that Wildlife Services would be the permit holder from the U.S. Fish and Wildlife Services, just as it has been in adjacent states (Nevada and Wyoming). In early December, it was indicated that IDFG had to be the permit holder. In December, an application was submitted by IDFG. Right now, they are waiting on a response from the U.S. Fish and Wildlife Service.

Senator Tippetts inquired as to how IDFG arrived at the number of birds referred to in the application and also, what percentage of ravens are in those areas. **Mr. Kemner** said that some past studies had been done and in areas where the raven density was above .47 ravens per square kilometer, they were likely to have an impact on sage-grouse nest survival. Studies in the INL and Curlew Valley found raven densities to be 49 to 81 percent higher than other areas.

Mr. Kemner said that ravens are territorial and if they are removed they move back in the following year. That is why they remove the territorial ravens during the sage-grouse nesting season. **Chairman Pearce** asked how 1,750 birds can be killed with only 250 eggs. **Mr. Kemner** said the 1,750 ravens are the adult birds that they propose to take with chicken eggs laced with DRC-1339, a corvidicide. They are also proposing that if they find raven nests in the management action area, they would have a permit that would allow them to remove those nests during the sage-grouse nesting season. Within those nests, they could take up to 250 eggs.

Senator Lacey inquired about the timeline, as to when it starts. **Mr. Kemner** said they are proposing to start next month; however, it all depends if they get the permit approved. March is when the sage-grouse nesting season starts.

Senator Brackett said the areas closed to hunting seem suitable for control and asked Mr. Kemner to comment. **Mr. Kemner** said there is one area that has been closed to hunting since 1984 and that is the West Central area, near Midvale and Weiser. He said they look at the population trend over a three year period compared to a base line and that determines what areas are closed to hunting.

Senator Siddoway said that in his perspective, very little has happened in trying to reduce the number of ravens in the sage-grouse areas. He expected some work to be done last year after the money was appropriated, and is disappointed in his expectations. Some of his questions were: 1) Did they run into problems with the permit system? 2) Was it too much ground work on the ravens? **Mr. Kemner** stated that his understanding was that it applied to their FY 2014 budget and that was beyond the sage-grouse nesting season. When the intent language was passed, it would not have given them time to get a permit from the U.S. Fish and Wildlife Service and for the Wildlife Services to get an environmental assessment conducted.

Director Moore said if there was any misunderstanding about the legislative intent, he will take responsibility for that. He stated that the staff followed through with the direction they had and it has given them a chance to get everything in place.

TESTIMONY:

Mr. Todd Grimm is with Wildlife Services (WS) and he said they are going to do a supplemental environmental assessment. In October, they sent it out for agency review and received extensive comments, mostly from the Bureau of Land Management (BLM). They are now incorporating those agencies' comments into the document and will send it out for public review either this week or next week. It will be out for 30 days and then they will review any additional comments. It is hoped that IDFG will have received their permit by that time and work can begin.

Mr. Grimm said in the second week of March, some experts from Nevada will come to train staff and share information that they have found helpful. Late March or early April, WS will start preparing 10,000 eggs - treating them and placing them in fields. **Mr. Grimm** stated that six or seven employees will be doing this work until early June.

Senator Tippetts said the testimony sounds rather optimistic and asked Mr. Grimm to give him his assessment of the likelihood that the permits will be in place in time to meet the schedule that he is hoping for. **Mr. Grimm** said that if the Fish and Wildlife Service Region follows through the way other Regions have, he doesn't anticipate any problems in getting the permit. This type of work has been done in Utah, Wyoming, and Nevada for several years, so nothing new is being proposed. **Senator Tippetts** then inquired if Mr. Grimm was optimistic in meeting the timelines. **Mr. Grimm** replied that he feels they will, but wishes they had started the process earlier or been more aggressive in getting the agency comments back. **Mr. Kemner** was asked his opinion regarding the timeline and he responded by saying it seems logical that their permit should be approved as they are not adding anything new to the program.

Vice Chairman Bair inquired as to why Nevada and Wyoming were given permits and IDFG is not moving in the permitting process. **Mr. Grimm** said that in his experience with working with different Wildlife Service Regions around the country, they all have their own rules that they follow.

Senator Siddoway asked about toxicants that will be used and how they will be administered. **Mr. Grimm** said it is the same that is used at dairies and feedlots where ravens are killing calves and sheep already. It is DRC-1339. The way it is used to kill ravens is different than the way it is used to kill starlings and pigeons. They inject poison into the soft membrane of the hard boiled eggs, then they put the eggs out in artificial nests where they expect the ravens to be. They also put out carcasses of roadkill to attract ravens to the immediate vicinity and as the ravens are pecking on the carcasses, they will find these artificial nests and take the eggs. He said it takes approximately four eggs to kill one raven, as they steal them, fly away and make a cache, but may not necessarily eat all of them. **Senator Siddoway** asked why the amount of toxicant per egg is not increased. **Mr. Grimm** said one raven steals the eggs from one nest (other ravens stay away) and has a cache, so it wouldn't make any difference how much toxicant the eggs were filled with.

Senator Stennett inquired if there was a monitoring system that they watched (the artificial nests with the laced eggs) to observe which species might be taking the eggs, other than the ravens. She feels the concentrate in the eggs would affect other species differently. Also, how do they litigate incidental poisoning of other species? **Mr. Grimm** stated that the poison is only effective against birds. The reason they use eggs is because there are only a few birds that are attracted to the eggs. He feels it is mainly limited to ravens, crows and magpies.

Chairman Pearce thanked the presenters for their information this afternoon. He stated that the Committee's concern regarding the sage-grouse is an important issue to them and one that they want to see move ahead.

S 1279:

Mr. Norm Semanko presented **S 1279** and thanked the Committee for rescheduling the hearing. This legislation updates the process relating to the sale of personal or real property of an irrigation district and has no fiscal impact. This statute has not been addressed for 40 years and the numbers are very old and antiquated. When an irrigation district wants to sell property, the board members determine if it is no longer needed. If the board decides that the value exceeds \$2,000 then there is an elaborate process prior to any sale, which includes getting three independent appraisals, giving notice in each of the precincts of the district and posting in three different places.

The \$2,000 number is so low that by the time they go through the process, it is not worth it. Research has been done and this is not like the procurement law - that being a uniform standard across the board for everyone. Disposal laws are different among all the different kinds of political subdivisions. **Mr. Semanko** said that he is most familiar with the city, having been a city official for five years. There is no requirement of any kind to get bids to sell it. The number the legislative committee of the irrigation district proposed was \$50,000.

TESTIMONY: **Senator Stennett** inquired as to what process brought them to this number. **Mr. Semanko** said it was the irrigation districts' board members and managers from 50 to 70 different districts from around the State at a legislative committee meeting. They wanted it at a level from which you would want to be getting appraisals. There were 99 people present at the meeting and 80 percent were Irrigation District Canal Company board members or managers. Canal companies are not affected by this legislation, only irrigation districts.

TESTIMONY: **Mr. Harold Mohlman**, Chairman of the Board for A&B Irrigation, testified in support of this bill. He said that the past couple of years, they have had old equipment come up for surplus. In the process, they found out that some of the surplus equipment is actually scrap material. Scrap is more valuable. It is very hard to get three farmers to come in and determine what the surplus price might be, knowing the value of scrap. By raising the amount to \$50,000, it would alleviate their problem and speed up their ability to get rid of the surplus equipment. To get advertising done and pay for an auctioneer, it probably would cost more than \$2,000.

MOTION: **Senator Siddoway** moved that **S 1279** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by unanimous **voice vote**. Senator Cameron will be the sponsor of the bill.

H 424: **Mr. Semanko** presented **H 424**. This legislation came from the irrigation districts' legislative committee. It clarifies that an election for the office of irrigation district director is not required when the district's secretary verifies that there is either: (1) only one qualified candidate for the office of director, in which case the qualified candidate is declared elected; or (2) no qualified candidate for the office, in which case the incumbent director's term continues until a successor is elected and qualified, as provided by law. This legislation also removes the outdated requirement of immediate delivery of a certificate of election. Pursuant to Idaho Code § 43-202, a certificate of election is presented to an irrigation district director on the date the director's term of office begins.

MOTION: **Senator Heider** moved that **H 424** be sent to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by unanimous **voice vote**. Senator Heider will be the sponsor of the bill.

H 425: **Mr. Semanko** presented **H 425**. He said this legislation would increase the minimum water user fee that water districts may assess individual water users for water master services. Any change in the minimum water user fee requires a vote of the water users by resolution at the annual meeting of the water district. This bill has not been touched in 34 years and there was a provision put into the code 34 years ago that there would be a water users minimum charge. That charge was according to the proportionate share. A minimum charge 34 years ago was \$20.00. Fourteen years ago it was increased to \$50.00. **Mr. Semanko** said there are two points: 1) it is not an automatic charge to the minimum level; and 2) it has to be voted on by the water users of the district at the annual meeting. The water users fee has worked, but they feel they need to adjust the maximum fee for the minimum user.

TESTIMONY: **Mr. Rex Barrie**, Water Master for Water District #63, testified in support of the proposed changes for **H 425**. Water District #63 is comprised of the Boise River Basin and five counties, all located within the boundaries of the Basin. Currently, water districts in the State are only allowed to charge \$50.00 as a minimum for water master services. In the Boise River Basin, the average cost to monitor the 60 sites below Lucky Peak average \$600.00 per year.

Each site must be visited in person once a week to record the data and a physical measurement must be made periodically during the irrigation season to qualify that data. On average, it takes 10 minutes to record the data at each of the 60 sites. There are approximately 28 weeks during the irrigation season when the data is collected. The physical measurement requires two hours on average to perform. Assessments for Water District #63 are calculated based on total cubic feet diverted; these totals are divided by the budget amount required for the year and assessments range from over \$40,000 to the Boise Project Board of Control to as low as \$1.50 to the Meads Ditch.

The water users at their annual 2011 meeting voted by resolution to adopt the \$50.00 fee for all diversions using below the minimum cubic foot per second. This was to help offset the cost associated with recording the data weekly and helped to relieve some of the burden from the large users.

In 2013, the Director of the Department of Water Resources signed an order expanding the administrative duties of Water District #63 to include diversions above Lucky Peak Reservoir. An increase of the minimum allowable assessment will help offset costs associated with the administration of these surface rights. The travel time alone, to and from areas like Pine and Featherville, will far exceed the current allowable minimum assessment. **Mr. Barrie** asked that the Committee support these changes.

Senator Brackett inquired if once the water leaves one of the measured sites, are there any further measurements on down the ditch or stream. **Mr. Barrie** replied that they measure strictly at the point of diversion off the river. If any further measurement is taken below that point, it would be the irrigation company or irrigation district, represented by "ditch riders".

TESTIMONY: **Mr. Richard Durrant** testified on behalf of the Boise Irrigation District and the Boise Project Board of Control, of which he is chairman. He stated that they are in support of **H 425** and it will help to cover some of the expenses incurred above Lucky Peak.

TESTIMONY: **Mr. Semanko** stated that he appreciated the testimony that helped explain the situation and he recognized Mr. Barrie for taking the lead and calling the watermasters throughout the State. He also said others in support of this legislation are Kevin Lakey of the Wood River Valley and Water District #1.

MOTION: **Senator Brackett** moved that **H 425** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Senator Cameron**. The motion carried by unanimous **voice vote**. Senator Brackett will be the sponsor.

H 371: **Ms. Betty Munis**, Idaho Forest Products Commission, provided a letter listing the four changes that they are proposing for **H 371** (see attachment 3). The four changes in **H 371** would involve the advisory members, commission members, forest landowner assessment, and clerical. It was signed by Commission members: Jack Buell, Chairman, Buell Trucking, St. Maries; Michael D. Boeck, Tri-Pro Forest Products, Orofino; Shannon Fuchs, Idaho Forest Group, Grangeville; Darin R. Ball, Potlatch Corporation, Lewiston; and Jerry Ikola, Ikola Logging, McCall. Other written information provided by Ms. Munis were two brochures (see attachments 4 and 5).

The advisory members had five non-voting advisory members. It would remove the Idaho Forest Association (IFA) advisory member because of disbandment in 2010 and add two advisory members, one from the Idaho Department of Commerce and one from the Idaho Department of Agriculture.

The Commission has five voting members from four districts and two members are from district four. This legislation would provide only one member from district four and one more member from any district.

In the forest landowner assessment, there are three categories of assessments which fund IFPC's activities. **H 371** would reduce the forest land ownership, remove the manufacturing facilities clause, remove reduction of assessment by volume, and reduce and limit the assessment level.

In the clerical category, name corrections would be made to U of I College of "natural resources" rather than forestry, wildlife and range sciences and to the department of labor rather than department of employment.

**WRITTEN
TESTIMONY:**

Written testimony (see attachment 6) was received from **Jeffery Sayer**, Director of Idaho Commerce, stating that they had been asked to appoint a member of their staff to the Commission. He stated they are in support of the changes and are excited to help contribute to this vital industry.

**WRITTEN
TESTIMONY:**

Written testimony (see attachment 7) was received from Celia Gould, Director of the Department of Agriculture. They are in support of **H 371** and said they would gladly participate in an advisory capacity.

**WRITTEN
TESTIMONY:**

Mr. Paul Buckland, Forest Resource Manager for the Inland Empire Paper Company, also provided written testimony (see attachment 8). He stated they fully support the measures included in **H 371** and believe it is a thoughtful approach to resolving industry changes.

TESTIMONY:

Ms. Jane Wittmeyer, Wittmeyer and Associates, testified on behalf of the Food Producers and said they are in support of **H 371**.

Senator Tippetts questioned the word "withstanding" on page 2, line 5. He asked if the words "not withstanding" would have been a better choice. **Ms. Munis** said if it needed corrected, then she would agree to an amendment.

TESTIMONY:

Mr. Jeremy Pisca, representing the Potlatch Corporation, said they stand in support of this legislation. Regarding the words under discussion, Mr. Pisca believes the wording is correct as it is written; however, he suggested contacting the legislative writers and holding the bill until the Committee gets a clarification.

MOTION:

Vice Chairman Bair moved that **H 371** be held until Wednesday, so that they may speak with the bill drafters and get a clarification. The motion was seconded by **Senator Siddoway**. The motion carried by unanimous **voice vote**.

H 372:

Mr. Eric Wilson, with the Idaho Department of Lands, said this legislation relates to mineral exploration and leasing activities on state lands. Public trust lands include the beds and banks of Idaho's navigable waterways. These lands are used for multiple purposes, including commercial, navigational, recreational, and other public uses. Endowment trust lands are lands granted at statehood for the purpose of generating maximum long-term financial returns from the use of these lands. These lands are managed for public schools and other state institutions. **Mr. Wilson** provided a handout (see attachment 9) that he reviewed for the Committee. It included some history and the proposed three changes.

**CONFLICT OF
INTEREST:**

Senator Tippetts declared a potential conflict of interest as his employer likely has had state leases regarding mineral exploration.

Vice Chairman Bair inquired if the suction miners are in favor of this bill. **Mr. Wilson** said he discussed the changes with two of the local groups. They indicated they would get back with him if they had any concerns, and he has not heard back from them.

MOTION: **Senator Siddoway** moved that **H 372** be sent to the floor with a **do pass** recommendation. **Vice Chairman Bair** seconded the motion. The motion carried by unanimous **voice vote**. Senator Siddoway will be the sponsor.

H 373: **Director Tom Schultz**, Idaho Department of Lands, presented **H 373**. He said it is a simple bill. The legislation clarifies that the Oil and Gas Conservation Commission resides within the Idaho Department of Lands for purposes of compliance with the organizational structure of state government outlined in Article IV, Section 20 of the Idaho Constitution.

MOTION: **Vice Chairman Bair** moved that **H 373** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Senator Heider**. Vice Chairman Bair will be the sponsor.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 3:05 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 26, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|-------------------------|--|----------------------------------|
| Approval of minutes | Minutes for February 10, 2014 | Sen. Jeff Siddoway |
| Approval of minutes | Minutes for February 12, 2014 | Sen. Dean Cameron |
| Approval of minutes | Minutes for February 14, 2014 | Sen. Roy Lacey |
| RS22995 | Water Quality Unanimous Consent Request | Norm Semanko Chairman Pearce |
| H 371 | Forest Products Commission | Betty Munis, FPC |
| Presentation | Idaho Soil & Water Conservation Commission | Terri Murrison |
| H 399 | F&G, hunting licenses, junior | Sharon Kiefer, IDFG |
| H 410 | Injection wells, definition revised | Tim Luke, IDWR |
| H 412 | Water Resources, Director, qualifications | Gary Spackman, Director, IDWR |
| H 413 | Stumpage districts | Rep. Ed Morse |
| H 467 | F&G, control hunt permits | Rep. Mike Moyle |

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippetts
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
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Phone: 332-1323
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Lydia Woodland, Page

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 26, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m. and stated that the first order of business would be to approve some Minutes.

MINUTES: **Senator Siddoway** moved that the Minutes of February 10 be approved. The motion was seconded by **Senator Heider**. The motion carried by unanimous **voice vote**.

MINUTES: **Senator Lacey** moved that the Minutes of February 14 be approved. The motion was seconded by **Senator Siddoway**. The motion carried by unanimous **voice vote**.

RS 22995: **Mr. Norm Semanko**, Executive Director, Idaho Water Users Association, presented **RS 22995**. He said that he is working with Roger Batt, Idaho Heartland Coalition, who is also a sponsor of this RS.

The purpose of this legislation is to provide legislative direction for the implementation of water quality pollutant trading and other innovations in attaining and maintaining water quality in Idaho's bodies of water. The Idaho Department of Environmental Quality (DEQ) supports and has developed guidance for water quality trading. This is done by directing that Idaho's water quality laws be administered to support and maximize such innovations; defining "water quality pollutant trading"; authorizing DEQ to review and approve or certify water quality pollutant trades; trading frameworks and means of verifying that trading will contribute to the attainment of water quality standards; and authorizing DEQ to adopt rules relating to water quality trading.

UNANIMOUS CONSENT REQUEST: **Vice Chairman Bair** asked for unanimous consent to send **RS 22995** to the Judiciary and Rules Committee for printing. There were no objections.

H 371: **Ms. Betty Munis**, Forest Products Commission, said that after reviewing the concern regarding **H 371** at the previous meeting, an amendment has been prepared addressing that issue. The amendment reads: On page 2 of the printed bill, in line 5, delete "Withstanding current member terms, beginning" and insert: "Beginning". **Ms. Munis** asked that the Committee consider the amendment and send **H 371** to the 14th Order (Amending Order).

MOTION: **Senator Siddoway** moved that **H 371** be sent to the 14th Order for amendment. The motion was seconded by **Vice Chairman Bair**.

Senator Tippetts thanked Ms. Munis and the Committee for their patience in resolving his concern. The motion carried by unanimous **voice vote**.

PRESENTATION: **Ms. Terri Murrison**, Administrator of the Idaho Soil and Water Conservation Commission, presented their 2014 Annual Report via a PowerPoint program (see attachment 1). She introduced Ms. Ali Hardy, who is assisting her with the presentation.

The Idaho Soil Conservation District Law was enacted on March 9, 1939 establishing the Commission and providing for the formation of local conservation districts. Earlier in the 1930s, the federal government formed the Soil Erosion Service, now the Natural Resource Conservation Service (NRCS), to deal with soil health on a national scale. They assigned a state conservationist to work with the State and local farmers and ranchers in establishing a statewide conservation movement.

The Conservation Commission has three core functions: 1) providing district support; 2) programs; and 3) administration. Regarding district support, there are 50 districts in Idaho. Last year, all districts completed statutorily-required five year antidegradation plan updates. The Commission helped 31 of the 50 districts with projects, initiated 24 new projects, worked on 41 ongoing projects, and with partners, served 246 landowners.

This year the districts received about \$1.15 million in operating support from the General Fund. They raised another \$500,000 from local government and other local matching sources to total almost \$1.6 million dollars statewide. Many also secured grants for projects. The Commission provided \$50,000 for capacity building activities. Their records show that since 1990, they have been involved with over \$88 million worth of projects. Of that, over \$22 million dollars have been Commission funds. The Commission has impacted almost 1.5 million acres with Conservation the Idaho Way.

Beyond district support services, **Ms. Murrison** said they manage incentive-based and general conservation programs such as the Conservation Reserve Enhancement Program (CREP). CREP conserves water usage on marginal farm ground in the Eastern Snake River Plain Aquifer. Participating landowners receive modest federal payments from the Farm Service Agency in exchange for not farming these lands. Existing CREP contracts numbered 179, enrolling 17,227 acres in the program. It saved 34,454 acre feet of water - enough to serve about 330,000 people. It saved 68 million kilowatt hours of electricity; almost 138,000 tons of soil erosion due to wind and water; diverted up to 4.5 million pounds of fertilizer from enrolled acres; and significantly benefitted wildlife and fish habitats.

Ms. Murrison stated that the Rangeland Resource Conservation Development Program (RRCDP), since 1990, has funded almost \$25 million in loans, impacting close to 133,000 acres. Loan rates range from 2.5 to 3.5 percent. The maximum loan limit is \$200,000 per loan, or \$300,000 per borrower. In exchange for low interest loans, landowners operate under a conservation plan and improve practices or replace equipment to produce a conservation benefit resulting in water savings, erosion reduction, etc. As of December 31, they have 108 outstanding loans totaling \$4,098,507.

The Idaho Code designates the Commission to assist DEQ in preparing Total Maximum Daily Load (TMDL) program implementation plans to strategically reduce agriculturally-generated pollutant loads for impaired surface waters. Once completed, districts take on projects that go toward reestablishing waters that fully support all their beneficial uses. To date, they have completed 93 implementation plans. Last year, five of their field staff completed five implementation plans and juggled 19 in progress. They now have 17 plans in progress and 18 plans pending.

Ms. Murrison said that they wring every drop of voluntary conservation from every dollar appropriated to the Commission and their efforts are making a difference. There is always more that can be done, but she said, considering the economic times and the constraints of state funding and human resources, she feels they are doing a good job.

Senator Siddoway said that he wanted to thank Ms. Murrison for the good work that she and the Commission have done over the years.

Chairman Pearce thanked Ms. Murrison for the annual report. He also thanked her and the Commission for the good job that they are doing.

H 399:

Ms. Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game (IDFG), presented **H 399**. She said this bill is about a change to eligible minimum age to hunt big game. Youth are not eligible for any hunting license unless they have successfully completed hunter education or they have held a hunting license in another state.

Idaho's current resident Junior Hunting License allows youth who are twelve to hunt big game unaccompanied in the field. Youth who are ages ten and eleven may hunt essentially everything else except big game and they must be accompanied in the field by an adult with an Idaho hunting license.

Ms. Kiefer said that the nonresident Junior Mentored Hunting License has a similar provision except that any nonresident youth possessing this license (ages 10-17) must be accompanied in the field by an adult with an Idaho hunting license.

H 399 simply lowers the age from twelve to ten that youth could purchase big game tags and hunt big game. The requirement for resident youth, ages 10-11, and nonresident youth, ages 10-17, to be accompanied in the field by an adult with an Idaho hunting license is not altered by this bill.

Ms. Kiefer said that this bill is not a requirement that a youth must begin big game hunting at age 10. IDFG has only provided the opportunity for families to make a decision about big game hunting at this age. Relative to safety, **H 399** is founded on technical information from other states and organizations such as Families Afield and the National Shooting Sports Foundation. The information demonstrates that youth hunting with a mentor is not a serious safety risk. A copy of Ms. Kiefer's complete testimony is on file (see attachment 2).

During the discussion, **Senator Stennett** said that she supported youth hunting, but feels lowering the age limit is too young. **Senator Cameron** stated that there had been a tragedy in his district and that he could not support the bill.

MOTION:

Senator Heider moved that **H 399** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Senator Siddoway**. The motion carried by majority **voice vote**. Voting no were **Senators Stennett, Lacey, and Cameron** who asked that they be recorded as such. Senator Heider will be the sponsor.

H 410:

Mr. Matt Anders, Idaho Department of Water Resources (IDWR), presented **H 410**. He said there is a need to clarify the definition of an "injection well" by replacing the term "drilled" with "used". The change is necessary to clarify IDWR's authority to regulate underground oil and gas production wells that are converted to injection wells and used for the injection of waste fluids. The Environmental Protection Agency (EPA) has advised IDWR that EPA approval of Idaho's Underground Injection Well rules may be at risk unless the definition is clarified.

The Underground Injection Control (UIC) program regulates wells used to place fluids underground for storage or disposal. Idaho has primacy from the EPA to administer the UIC program in Idaho on behalf of the EPA. Since 1984, IDWR has regulated Class V injection wells (Examples: stormwater runoff, recharge). In 2012 and 2013, Idaho updated its statutes, Title 42, Chapter 39 and rules, IDAPA 37.03.03, to regulate Class II injection wells associated with oil and natural gas production. The EPA must approve all changes to Idaho's UIC statutes and rules before Idaho can implement them. The EPA will not accept Idaho's current definition of injection well.

The EPA will not accept "...does not include any well drilled for oil, gas or geothermal production activities..." They feel it would exempt from regulation oil, gas, and geothermal production wells which are later converted to injection wells.

Mr. Anders provided a handout (see attachment 3) that gave an overview, proposed change, and reason for the change. It is on file. He stated that the Oil and Gas Industry, the Idaho Water Users Association, the Idaho Ground Water Association, and negotiated rulemaking participants are in support of this change.

Senator Tippetts said it had been brought to his attention two years ago that a loophole was being created with the language being used dealing with injection wells. At that time, he didn't understand, but now he does after reviewing the bill and researching the code pertaining to it, § 42-3902(a), which he read aloud. The key word to **Senator Tippetts** was "the prohibited action", not just the injection, but the injection to an existing injection well. If it is not an injection well, then it is not prohibited. **Senator Tippetts** said that he appreciated the fix, but asked Mr. Anders if he thought it went far enough. **Mr. Anders'** response was yes. **Senator Tippetts** asked if the language should be more specific. **Mr. Anders** agreed.

MOTION:

Senator Tippetts moved that **H 410** be sent to the 14th Order for amending. The motion was seconded by **Senator Stennett**. Senator Tippetts will be the sponsor.

H 413:

Representative Morse said that **H 413** is a simple bill. It repeals an archaic code section for stumpage districts which is no longer needed, used, or functional. The bill states that "Chapter 10, Title 38, Idaho Code, be, and the same is hereby repealed."

There are 28 code sections in Chapter 10 and **Representative Morse** said this is not needed and it reflects conditions from industrial clear cutting times, back in the early 1900s. The statutes were adopted in 1917 and they have never been amended. **Representative Morse** stated that he has been a real estate appraiser for the last 40 years and has not seen nor heard of their use.

The stumpage district legislation allowed these districts to be formed and to go in and to clear stumps from the land. By not having 100 percent landowner approval, that would raise huge issues these days about trespass and eminent domain. That legislation provided no process for the acquisition of temporary easements or payments for those kinds of rights in order to get in and clear stumps from someone else's property.

Representative Morse said that under current law and legal standards, absent emergency powers, a government board cannot enter into another person's property and remove stumps unless they can make a just cause and go through appropriate process procedures. In the current legislation under § 38-1005, the legislation allows bills to the property owners without their consent and if the stumping plan is feasible under Sections 1013 and 1012, the non consenting owners are billed. **Representative Morse** said this would clearly trigger litigation under current times. The costs and fees in Sections 1009, 1003, and 1006 are outdated. In addition to the problems within the code itself, there is simply no need for this chapter. **Representative Morse** said there was no opposition to this bill in the House and he would like your support.

MOTION:

Vice Chairman Bair moved that **H 413** be sent to the floor with a do pass recommendation and the recommendation that the bill be placed on the Consent Calendar. The motion was seconded by **Senator Tippetts**. The motion carried by unanimous **voice vote**.

H 412

Director Gary Spackman, Director of the Idaho Department of Water Resources (IDWR), said **H 412** proposes to revise and broaden the required qualifications for the Director of IDWR. He provided a summary sheet to the Committee (see attachment 4) that describes the changes. Changes in the director's qualifications have been talked about for a number of years. He stated that he wanted to give some background data because of the possible concerns.

When he was appointed as Director of IDWR, one of the assignments given him by the Governor was to look at the requirements and to work with water users, legislators, the Governor's office, and other interested persons and entities to determine if there was a way to update the director's requirements, as the language was archaic, and only allowed registered hydraulic and civil engineers to serve. The Board of Professional Engineers does not license hydraulic engineers. Because of that, the language was old. The types of people they employ and the kinds of disciplines that are required, they not only have engineers in their office that contribute expertise, but have hydrogeologists. About half of their technical people, or at least an equal number of technical people, are geologists trained as hydrogeologists for ground water modeling and analysis, as well as engineers doing some similar work with surface water. They also have employees in the office that are trained primarily with surface water, delivery, forecasting, and those kinds of disciplines.

Director Spackman said as he looked across the department and the disciplines that they employ and the people who now have developed expertise, he felt the limitation was unfair, to just the engineering discipline. He looked at some other states and there are a wide variety of differences. He feels it is a fair proposal that they broaden the disciplines to include these other technical people, who at least within the department, serve adequately and professionally as the engineering core. They have added those particular disciplines. The language in the bill was largely his and he worked with the Governor's Office on this. Some additional language has been added to the qualifications and that is that the candidate has demonstrated experience and expertise in interpreting and applying Idaho law. That language was not in the statute before. The Governor's Office and he both agreed that it was an important requirement, that someone should not come in cold without some acquaintance with Idaho law and the organizational structure of how things operate within the Department.

Director Spackman said if someone comes in and does not know who the Committee of Nine is and what they do in the Upper Snake, and the water delivery, it would make it much more difficult. He said he appreciates the Committee's consideration of this particular bill and asks for a do pass recommendation regarding **H 412**.

Vice Chairman Bair said that he understands what is trying to be done; however, one of the requirements is that one has to have some knowledge of the existing Department of Water Resources. He asked if that would preclude other highly qualified people who have worked in other departments of water resources in other states from applying. **Director Spackman** stated that it could be a limitation.

Senator Brackett inquired as to how the current director's qualifications line up with the proposed legislation. **Director Spackman** answered that he is a licensed civil engineer. His education was in agricultural engineering, which tracks in education much of the civil engineering discipline; however, he took his exam in civil engineering. **Senator Brackett** then asked the Director if he would qualify under this proposal. **Director Spackman** said that he hoped his many years of interpreting water law has helped to develop expertise in applying Idaho water law. He is also familiar with irrigation water uses. **Senator Brackett** said that the Director's qualifications are reassuring and thanked him.

Chairman Pearce added that there has been a need for someone to have experience in water law and asked if that was their only criteria such as lawyers, would that exclude them from becoming the director. **Director Spackman** said that people who manage water in the western United States are typically registered engineers. When they were state engineers, or the equivalent, they were more involved in design work and the delivery of water. He does not want to disparage attorneys, but from his perspective, attorneys are generally interested in advocacy. Engineers and technical people are more interested in addressing problems from a technical basis. He stated that there probably is a lesser likelihood of political influence and he has resisted including attorneys as part of the eligibility pool.

Director Spackman stated that they are broadening the eligibility of technical people, but also narrowing it by saying they shall also demonstrate experience and expertise in interpreting and applying Idaho water law.

Senator Siddoway inquired about the Director's reference to the "Committee of Nine" and if that would restrict someone from out-of-state. **Director Spackman** said it could restrict their ability to serve. **Senator Siddoway** then asked if he thought that was wise. **Director Spackman** said that in his past observations and experiences within the Department, were it not for some assistance and very helpful administrators who had been there over time, there is a risk of possible pitfalls, that if a person has only a shallow acquaintance with organizational structures, they may struggle.

TESTIMONY:

Mr. Lynn Tominaga, Executive Director for the Idaho Ground Water Appropriators, said he would like to share some information with the Committee. He has been associated with water for 30 years and said there were at least 3 attempts to change the director's job description. They did it in the late 80s, mid 90s, and early 2000. Whenever there is a change of Governors, there seems to be an attempt to try to change the job description for the director. Usually, they remove all requirements so that the Governor could appoint someone who might have political favor with him. The water user community has always discouraged that or always opposed that which would completely wipe out the qualifications for the director. They felt the director needed some kind of technical background because of the seriousness of the decisions that had to be made. **Mr. Tominaga** said that there is a great deal of mistrust among the water users community of having an attorney for the director of Water Resources and try to make new law as the director. He feels this legislation

is a good comprise of having a technical person that needs to be in that position, but also has the trust of the water users community.

- TESTIMONY:** **Mr. Norm Semanko**, Executive Director, Idaho Water Users Association, stated that they do support this legislation. They also feel that a director must be familiar with the irrigation system in Idaho and the water laws that are applied to irrigation in Idaho. He said they would have problems if it included lawyers.
- MOTION:** **Vice Chairman Bair** moved that **H 412** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Senator Brackett**. The motion carried by unanimous **voice vote**. Senator Bair will be the sponsor.
- H 467:** **Representative Moyle** presented **H 467**. He said the legislation provides that the Fish and Game Commission may issue additional controlled hunt permits for bear and turkey to landowners or designated agents and there could be a positive effect on the Fish and Game dedicated accounts if permits were issued.
- WRITTEN TESTIMONY:** **Ms. Kiefer**, IDFG, provided written testimony (see attachment 5) supporting **H 467**.
- MOTION:** **Senator Brackett** moved that **H 467** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Senator Cameron**. The motion carried by unanimous **voice vote**. Senator Brackett will be the sponsor.
- MINUTES:** **Senator Cameron** moved that the Minutes for February 12 be approved. The motion was seconded by **Senator Stennett**. The motion carried by unanimous **voice vote**.
- ADJOURNED:** **Chairman Pearce** adjourned the meeting at 3:05 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, March 03, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|------------------------|-------------------------------|--------------------|
| Approval of Minutes | Minutes for February 17, 2014 | Vice Chairman Bair |
| Approval of Minutes | Minutes for February 19, 2014 | Senator Siddoway |
| S 1373 | Water Quality | Norm Semanko, IWUA |
| H 471 | Pipeline Corporations | Senator Rice |
| HJM 7 | Food Safety Modernization Act | Rep. Dayley |

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippetts
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

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Lydia Woodland, Page

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 03, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

MINUTES: **Vice Chairman Bair** moved that the Minutes of February 17, 2014 be approved. The motion was seconded by **Senator Heider**. The motion carried by unanimous **voice vote**.

MINUTES: **Senator Siddoway** moved that the Minutes of February 19, 2014 be approved. The motion was seconded by **Senator Brackett**. The motion carried by unanimous **voice vote**.

S 1373: **Mr. Norm Semanko**, Executive Director, Idaho Water Users Association, presented **S 1373**. Mr. Roger Batt, Idaho Heartland Coalition, is also a sponsor of this bill, and they have been working together on this legislation. **Mr. Semanko** thanked the Committee for helping to get the bill printed.

Mr. Semanko said this bill is very important for the future of water quality in the state of Idaho. There has been a lot of talk about water quality trading in Idaho for a long time. He said they have an unfortunate circumstance due to national environmental groups, particularly in the Chesapeake Bay area, who have challenged water quality trading. The substance of their argument is that they say the Clean Water Act (CWA) does not expressly provide for water quality trading. Having it in Idaho Code recognizes specifically to have the Idaho Department of Environmental Quality (DEQ) support that policy into moving forward. **Mr. Semanko** said there is nothing in the CWA that says Idaho can't do water quality trading and that's the major purpose for this.

The Statement of Purpose (SOP) reads: The purpose of this legislation is to provide legislative direction for the implementation of water quality pollutant trading and other innovations in attaining and maintaining water quality in Idaho water bodies. The DEQ supports and has developed guidance for water quality trading. This is done by directing that Idaho's water quality laws be administered to support and maximize such innovations; defining "water quality pollutant trading"; authorizing the DEQ to review and approve or certify water quality pollutant trades; trading frameworks and means of verifying that trading will contribute to the attainment of water quality standards; and authorizing the DEQ to adopt rules relating to water quality trading.

Chairman Pearce inquired as to how extensive the rules will be regarding the pollutant trading. **Mr. Semanko** deferred the question to Mr. Burnell who will testify later. **Senator Heider** asked how it is based - volume of water or parts per million of discharged pollutants? **Mr. Semanko** said looking at the definition, it is a water quality pollutant trade and credits can be traded. How credits are recognized will be set forth in rulemaking. **Vice Chairman Bair** said does that mean there will be a dollar value placed on the credits. **Mr. Semanko** replied that he understands there will be a value placed on the credits.

TESTIMONY:

Mr. Barry Burnell, Administrator of the Water Quality Division, DEQ, testified in support of **S 1373**. He stated that they reviewed the draft bill and suggested two changes, which the sponsors agreed to. DEQ has language in their water quality standards that addresses pollutant trading. **Mr. Burnell** read from IDAPA 58.01.02.055, Subsection 06, Pollutant Trading; "Development of TMDLs or equivalent processes or interim changes under these rules may include pollutant trading with the goal of restoring water quality limited water bodies to compliance with water quality standards". From that, the DEQ prepared a water quality pollutant trading guidance document, which basically outlines what types of information would be needed to establish their framework for trades to occur in.

Mr. Burnell said they felt it would be helpful if the Water Quality Act included a section of pollutant trading and **S 1373** does that. As far as existing trades that have occurred in the state of Idaho, they have had two which have been between two aquaculture facilities in the mid-Snake area and they were for single months. An aquaculture facility had discharges more than their NPDES permit which was for total phosphorous (pounds per month) and it is pounds that are traded.

Mr. Burnell said that as far as rules go, the main driver for pollutant trading in the state of Idaho will be the NPDES program. As rules are developed, it should include pollutant trading components, definitions, and elements that are in the framework for pollutant trading.

One other type of pollutant that isn't typically expressed in pounds per day is temperature. **Mr. Burnell** stated that temperature and total phosphorus in the valley and throughout the State are the components that will most likely have the marketplace for trades to occur in. With respect to cost, it should be worked out between the parties. A point source would go to a nonpoint source and work out a contract to implement the nonpoint source. They would then purchase that credit for their use in obtaining the NPDES permit.

Senator Siddoway inquired if an industry may trade "likes for likes". **Mr. Burnell** stated that it must be based on pollutant types, such as metal for metal, and phosphorus for phosphorus. **Chairman Pearce** asked if it has to be in the same basin, and **Mr. Burnell** replied that it has to be in the same water body. **Senator Brackett** said that the Twin Falls Canal Company was building sediment ponds for the removal of pollutants and he recollects that there was some sort of trading with the city of Twin Falls to discharge into the river. **Mr. Burnell** said the city of Twin Falls has an off-set as part of their NPDES permit. **Senator Tippetts** asked about the ratios. **Mr. Burnell** said typically there are ratios associated with the trade so there is a better environmental outcome. It could be a 2:1 ratio or 3:1 ratio and it depends on the water body and the framework that is set up for that water body. It may occur that a 1:1 ratio may come about, but it is not likely.

MOTION:

Senator Brackett moved to send **S 1373** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Tippetts**. The motion carried by unanimous **voice vote**. Senator Brackett will be the sponsor of the bill.

H 471: **Senator Rice** presented **H 471** and said that it clarifies gathering lines. Gathering lines are pipelines and other fixtures used to transport, deliver, and distribute natural gas, natural gas condensate or crude oil from a well-head to a transmission line or main line. The legislation also clarifies that a company owning or operating a gathering line is subject to the safety regulations of the Idaho Public Utilities Commission, but is not classified as a public utility unless it applies for that designation. The bill also clarifies the definition of "gathering lines" to include those lines that carry natural gas condensate.

Senator Rice said this legislation was worked on together with the Idaho Public Utilities Commission. They approve of the language and their concerns have been addressed. At some point, if a company with gathering lines wants to become a public utility, they are able to apply and do that. He stated that the real difference is that a pipeline company is not selling retail to the public, they are selling to a transmission line company or a public utility.

Senator Siddoway inquired if the definition of gathering lines would have an effect on taxes. **Senator Rice** stated that he doesn't see that as a concern.

MOTION: **Vice Chairman Bair** moved to send **H 471** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Heider**. The motion carried by unanimous **voice vote**. Senator Rice will be the sponsor of the bill.

HJM 7: **Mr. Norm Semanko** presented **HJM 7** in the absence of Representative Dayley. This House Joint Memorial is addressed to the Senate and House of Representatives of the United States in Congress, to the Congressional delegation representing the state of Idaho, and to the Commissioner of the United States Food and Drug Administration.

The Statement of Purpose (SOP) states that the Food Safety Modernization Act (FSMA) was signed into law in 2011. The proposed Food and Drug Administration (FDA) rule for FSMA would have a devastating impact on Idaho agriculture. Compliance with the water quality rules would be impossible or impractical throughout much of Idaho including an FDA estimated cost of \$30,566 first-year cost per farm. Also, the proposed transportation rules would be difficult and costly to Idaho business. This Joint Memorial expresses the Idaho Legislature's opposition to the proposed FDA rules and requests that the Congress of United States prohibit the FDA from adopting the proposed rules including any numerical water quality standards for irrigation water, transportation rules and any future FSMA rules until a clear understanding of their impact can be determined,

There is a court order for all rules to be in place by the summer of 2016. One of the rules is a produce rule that is proposed by the FDA to include a water quality requirement, and that water quality requirement is a requirement at the farm headgate and it needs to meet the standard. If the requirement is not met, the use of the water must immediately be stopped until the water is brought into compliance with the standard or an alternative source of water is acquired.

Two hundred fifty species of fresh produce will be affected by this rule. Every seven days during the growing season, the water must be tested. If the e coli level exceeds 235 colony forming units of bacteria, the farmer has to stop using the water. Under that standard, for every 1,000 people, 8 would get sick. **Mr. Semanko** said this memorial opposes that standard or any other numeric water quality standard that is almost impossible to achieve.

The Food Producers of Idaho are looking at the produce rules and they want to make it safe, fair, and effective.

MOTION: **Senator Heider** moved to send **HJM 7** to the floor with a **do pass** recommendation. The motion was seconded by **Senator Siddoway**. Chairman Pearce will be the sponsor of the legislation.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 2:10 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, March 12, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|-------------------------------|--|---|
| MINUTES | Minutes of February 24, 2014 | Senator Heider |
| MINUTES | Minutes of February 26, 2014 | Vice Chairman Bair |
| MINUTES | Minutes of March 03, 2014 | Senator Brackett |
| REPORT | Follow-up report of elk depredation on private property, District 23 | Senator Brackett and Constituents, Dist. 23 |
| REPORT | Follow-up report of elk depredation on private property, District 23 | Sharon Kiefer, Deputy Director, IDFG |
| <u>H 536</u> | Exchanges of state endowment lands | Rep. Vander Woude & Rep. Burgoyne |
| <u>H 526</u> | Use of Public Waters | Rep. Morse & Rep. Eskridge |
| <u>H 597</u> | Outfitters and Guides | Rep. Boyle & Chairman Pearce |
| <u>HJM 10</u> | Columbia River Treaty | Rep. Batt |
| <u>H 398</u> | Fish and Game, discounted licenses | Sharon Kiefer, Deputy Director, IDFG |

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

| | |
|--------------------|--------------|
| Chairman Pearce | Sen Heider |
| Vice Chairman Bair | Sen Tippets |
| Sen Cameron | Sen Stennett |
| Sen Siddoway | Sen Lacey |
| Sen Brackett | |

COMMITTEE SECRETARY

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 12, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the Senate Resources and Environment Committee (Committee) to order at 1:35 p.m.

MINUTES: **Senator Heider** moved that the Minutes of February 24, 2014 be approved. The motion was seconded by **Vice Chairman Bair**. The motion carried by unanimous **voice vote**.

MINUTES: **Vice Chairman Bair** moved that the Minutes of February 26, 2014 be approved. The motion was seconded by **Senator Cameron**. The motion carried by unanimous **voice vote**.

MINUTES: **Senator Brackett** moved that the Minutes of March 3, 2014 be approved. The motion was seconded by **Senator Stennett**. The motion carried by unanimous **voice vote**.

Chairman Pearce said on January 15, several constituents from Senator Brackett's district (the Mayfield area in District 23) appeared before this Committee and talked about the depredation caused by the elk and deer. Ms. Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game (IDFG), also spoke. **Chairman Pearce** requested, at that time, that they work out a solution to the problem and report back to the Committee before adjournment this session. He said they are here today with their follow-up reports.

Senator Brackett said he was appreciative of the Chairman scheduling the time for this issue and added that his constituents are extremely grateful. He stated that it is the first step in getting a handle on the issue.

REPORT FROM IDFG: **Ms. Sharon Kiefer**, IDFG, apologized on behalf of Director Moore for his absence, as he was called out-of-town. He had provided the Committee with an update by e-mail on March 4, 2014 regarding the Department's actions that were taken with the private landowners in the Mayfield area (see attachment 1).

Ms. Kiefer reviewed the action plan as outlined by Director Moore. IDFG has been monitoring the numbers and distribution of big game in the Mayfield area, and as of February 14, 2014 the staff had flown three fixed-wing surveys and plans to continue them every two to three weeks as needed. They are also monitoring big game trends by conducting ground counts by driving established routes once a week and recording species numbers and locations. They have also accompanied one landowner to count deer and elk on his private property.

Some of the draft action plan strategies include:

- 1) Identify and implement forage enhancement cost share projects with landowners on private land;
- 2) Adjust hunting seasons to increase harvest of ungulates before they arrive in Mayfield to reduce wildlife and hunter conflicts with private landowners;
- 3) Establish criteria and implementation plans for depredation hunts in advance;
- 4) Determine appropriate acceptance levels for wintering ungulates in the Mayfield area;
- 5) Continue to meet with individual landowners to determine ranch specific wildlife conflicts and implement strategies that will address them;
- 6) Develop ranch specific cost analysis, prioritize action plan elements and implement individual action plans;
- 7) In the interim, until population and habitat actions have had an opportunity to have their desired effect, use Continued Use Agreements - direct payments to landowners based on ungulate use of private rangeland;
- 8) Develop a standardized and defensible formula to calculate forage loss on private land in order to establish a three year Continued Use Agreement;
- 9) Cost share on private lands impacted by the Pony Fire;
- 10) Commit a dedicated staff person for a minimum of two years to work directly with landowners on a day-to-day basis to reduce the impact of wildlife damage to agricultural operations in the Mayfield area; to further enhance working relationships with landowners; and to develop and implement strategies to increase forage quantity and quality for livestock and wildlife on public and private rangeland.

Mr. Scott Reinecker, Regional Supervisor, Southwest District, IDFG, also reported to the Committee on some updates. They have been working with landowners, individually, to look at specific impacts the wildlife are having on them. Next week, the Commissioners will meet to set big game proposals, and the IDFG has been working with landowners and sportsmen's groups to identify strategies to increase harvest. **Mr. Reinecker** said in another week, there will be an announcement for a biologist position for the Mayfield area. The primary responsibility will be to work with landowners to develop some ranch-specific wildlife management plans, which will include both short-term and long-term plans.

**REPORT FROM
RANCHERS:**

Mr. Steve Damele, Ditto Creek Ranch, said there are two points he would like to address. First, it is a pasture forage loss on private land, not depredation. Second, the opportunity has passed to get a seed mix in the foothills. That would have helped in the long-term. The seed mix that was proposed by wildlife biologists and is used is sagebrush, small burnett, and alfalfa. Other seeds would have benefited the elk and deer more.

Mr. Damele said he did not get much of a response from his first letter to IDFG, so a meeting was set up and it was positive. As far as counting the animals, he feels there needs to be a better way. Aerial counting is a waste of time and money and the count is not very accurate. **Mr. Damele** sent a pasture bill to IDFG but has not had a response from them regarding that issue (see attachment 2). However, he wants to move forward in a positive direction and appreciates the input they had for the big game hunts.

Senator Brackett inquired of Mr. Damele about the seed mix and asked if any of them are a fire resistant species. **Mr. Damele** said he thinks the same seed mix was put in after the 1992 fire and he predicted another fire within the next ten years. **Senator Brackett** asked about other seeds, such as forage kosha, high cress and other wheat grasses that would provide more forage and be more fire resistant. **Mr. Damele** said he seeded as much as they could afford on their private ground and state ground - 3,000 to 4,000 acres - and their seed mix was Siberian wheat grass, kosha, and Russian wild rye.

Mr. Mike Grimm, Cornel Ranches, testified that the issues of their ranching operations have not been addressed. He feels that IDFG needs to get a general consensus on controlling the elk and deer population. They need to agree to a method on counting herd numbers and agree to how much range is needed. **Mr. Grimm** stated that the ranchers feel the problem is becoming more severe since the fire. However, they will continue to participate, when possible, in finding solutions for best practices working with the IDFG. Cornel Ranches' primary concern is that a solution be found now in order to continue their family operation.

Mr. John McCallum said the Iron Horse Ranch consists of approximately 54,000 private acres of which 3,700 acres are farm land. In October, 2000 they had 90 elk come into the ranch on Cold Springs and Bennett Creek, which they thought was great. In Mayfield, there were 300 to 400. Now, in the three locations, the elk are in the thousands. They arrive in September and stay until April. **Mr. McCallum** feels they provide 60 to 70 percent of the winter feed for 5,000 to 6,000 head of elk between Blacks Creek and Bennett Mountain Road.

Mr. McCallum estimates that to replace the feed for that number of elk for four months is \$432,000 per year, and that does not include deer, antelope, fence damage, land damage, major crop damage, or the farms and ranches at Bliss and Bennett Mountain Range.

With regard to cattle, **Mr. McCallum** said on their total ranches, they used to run 3,500 to 4,000 head. Now, they can only run between 1,700 to 2,400. He said they have no choice but to try to recover the damages to their ranches and farms. **Mr. McCallum** stated that IDFG has always had problems with fair compensation for feed and also explaining the reason for compensation to the sportsmen. He suggested the following that the IDFG could do to mitigate some of the damages: 1) Get the wolves down to the federal requirement; 2) Feed the elk away from the main wintering areas for cattle and farms; 3) Stop the September hunting seasons in the higher elevations; and 4) Provide a method for the elk to cross Interstate 184.

Mr. McCallum said these suggestions need to be handled through legislation and it will not be modified by IDFG without representation of landowners. He said that he has taken the rough draft of the Private Land Tag Program by IDFG and modified it to a fairer compensation package that he believes would work for the majority of the land owners (see attachment 3).

Chairman Pearce inquired about the wolf population on Mr. McCallum's property. **Mr. McCallum** said there are seven at the top of one ranch and three at a lower point.

Chairman Pearce said the problem is not solved yet and there is still more work to be done on this issue. He recommended that reports be made available this Fall. He then thanked the participants for their input today.

H 536:

Chairman Pearce asked Representative Vander Woude to present **H 536**.

Representative Vander Woude said this legislation is about exchanges on endowment land. It requires that when an appraisal is done, they also do a review appraisal on both the land they are exchanging and the land they are acquiring.

Senator Cameron said on line 31 and line 42 it talks about exchange, then on page 2, line 7, it says exchange and acquire. He asked Representative Vander Woude if it was his intention that an appraisal be done prior to an exchange or prior to an exchange and/or an acquisition. **Representative Vander Woude** said it was his intention that it be prior to an exchange that appraisals and review appraisals be executed for both the land they are acquiring and the land that they are disposing of.

Senator Cameron then asked about Section 2, Subsection (g) of the bill. First, there is a report, then an audit to be brought to the Legislature by February 1; however, the fiscal note does not speak to the cost of what the Legislative Service Office would have to do. **Senator Cameron** inquired if Representative Vander Woude, who is fiscally conservative, would be willing for the Legislature to hire more auditors to complete this task. **Representative Vander Woude** replied that he did not consider the cost of the audit at the time the legislation was written. He said, however, it would be up to JFAC if they decided they needed more auditors to accomplish this. He feels it would be worthwhile to protect the endowment beneficiaries to make sure they are getting the proper return on exchanges.

TESTIMONY:

Director Tom Schultz, Idaho Department of Lands, testified in support of **H 536**. He said, as stated by the sponsor, this bill would require the Land Board to conduct review appraisals of any appraisals for properties involved in land exchanges. The bill would also require that the Board report annually on land exchanges completed by the Land Board and the appraisals used in those exchanges.

Director Schultz said questions came up last fall about the adequacy and validity of an appraisal for the property that the department recommended that the Land Board exchange for. Appraisals are opinions of value rendered by professionals following uniform standards and procedures. The cost to implement this bill would be \$3,000 to \$5,000 per transaction. Most likely these costs would be split between the applicant and the State. A copy of his testimony is on file (see attachment 4).

MOTION:

Senator Cameron moved that **H 536** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Senator Lacey**. The motion carried by unanimous **voice vote**. **Senator Cameron** will be the sponsor.

H 526:

Representative Morse provided some background information regarding **H 526**. In 2011, the Washington Department of Ecology prepared a feasibility study to address some of the acute draw down and stream flow problems on the Spokane River on the Washington side of the Idaho-Washington state line. Their solution to the problem was to propose the construction of a 72 inch pipeline that would extract water from a point near Bayview, in Lake Pend Oreille watershed, and transport that across the Rathdrum Prairie and recharge the aquifer close to Rathdrum or Chilco. That water would percolate down across the state line, within the aquifer, and would reach the Spokane Valley and recharge the Spokane River at critical times. Their solution to the Washington water problem was to do an inter-basin Idaho project and transfer Idaho's water over to Washington.

Representative Morse said that in studying that proposal and meeting with the Idaho Department of Water Resources (IDWR) at length, it was not clear, under the existing statutes, if that project would fall within our existing statutory and legislative framework, specifically Idaho Code § 42-401. On February 12, the Attorney General's office gave an opinion on amending the statute by deleting the words "transport it for outside the State". Also, two other slight changes were suggested for the current statute: "transportation and" and "transport it". This proposed project would then fall within the scope of a statute and the Director could review it, impose conditions, approve it, or deny it.

Representative Morse said that this legislation is a statutory amendment brought specifically in light of a feasibility study and an extra state transfer project that was considered by the Washington Department of Ecology. The proposed project would make this water transfer solely for the benefit of Washington and does nothing to benefit Idaho. There are major issues about degrading Idaho's water, specifically if surface water infiltrated into the Rathdrum Prairie aquifer, it could degrade what is currently drinking water quality.

What the legislation does is delete the words "transportation and" and "transport it". There are no other changes to the statute. **Representative Morse** said this legislation has been examined by the Idaho Water Users and the agency, and he urged the Committee to support **H 526**.

TESTIMONY:

Director Gary Spackman, IDWR, stated that his first introduction to this concern was from a telephone call from Representative Eskridge, about three years ago. Representative Eskridge was asked to appear on a radio program in northern Idaho to talk about this study and asked the Director about it. Director Spackman said he knew nothing about it, but promised to find out. He said they were alarmed, after reviewing the study, that Washington would take Idaho's water out of the Pend Oreille Basin and ship it down to Rathdrum to satisfy the demands in the state of Washington for additional water in the Spokane River. **Director Spackman** said that he has conversed with all the legislators in District 1 as to what might be done. All the legislators have been actively participating in the discussions.

Director Spackman stated that the threat is not imminent, but it is real and is an alternative that is preferred by folks in the state of Washington. **Director Spackman** said that he has attended some seminars in Washington where they have discussed this issue and they are in favor of this, rather than any of their other choices. He feels they are expecting Idaho to solve their water problems. The solution presented by Representative Morse is a solution that tightens up and further restricts the opportunity for the state of Washington and other out-of-state interests to come in and use water from the state of Idaho.

Director Spackman said with respect to the legal issues, he could address them, but there is another person to testify that is highly qualified regarding the legality of the issues. In closing, he said that he wanted to congratulate the legislators that have been involved with this matter and their attention to it.

Senator Cameron said that he was concerned about lines 11, 13, and 14. It is the public policy statement of this section of code and is the intention of the Legislature. He said what he is being asked to vote for doesn't seem to matter what the out-of-state uses are. **Senator Cameron** said it troubles him that the use of our water would not be in the interest of the public. **Director Spackman** said his response is that this statutory enactment was an attempt to very delicately impose additional requirements for review upon an out-of-state applicant, without violating the Commerce Clause. An out-of-state applicant would have to satisfy these additional criteria in the statute before the Director and the State would approve the out-of-state use. This language is patterned after statutory language that has been challenged and has been upheld in court.

TESTIMONY:

Mr. Norm Semanko, Executive Director, Idaho Water Users Association, said they support **H 526**. Chapter 4 of Title 42 is an incredibly important chapter of Code. The lakes in north Idaho are as important as the rivers are in southern Idaho. The questions about the language in the Code now are on point. Looking at Sections 1, 2, and 3 of the current Code, Subsection 1 is the policy and says it is in the public's interest under certain conditions. This is the battle test of language in the U.S. District Court of New Mexico which was upheld because the rest of the bill, Subsections 2 and 3 are very stringent on a proposed out-of-state use. The words in Subsection 1 must match the words in Subsection 2 and it says "in order to do this use, you must go through the permit process" in Chapter 2 of Title 42.

In Subsection 3, you have to meet all criteria, and in addition, meet all the criteria that has been tested by the Idaho Supreme Court. Under the Commerce Clause, you cannot absolutely prohibit an out-of-state transfer, but the things you can appropriately consider include those of the criteria: water needs for the water in the state of Idaho; and water to other water sources available out-of-state to those folks. In order for all of those criteria, the Court has found that you can use those criteria to apply, it has to be made clear that it will apply for recharge use. **Mr. Semanko** said the real meat of the law is the criteria. The criteria needs to be tight and consistent as it may be challenged.

MOTION:

Vice Chairman Bair moved that **H 526** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Senator Siddoway**. The motion carried by unanimous **voice vote**. Senator Keough will be the sponsor.

H 597:

Mr. Russ Hendricks, representing the Idaho Farm Bureau, presented **H 597**. He stated that it replaces H 468 which had some totally unintended consequences. The purpose of **H 597** is to protect private property rights and to clarify the scope of authority of the Outfitters and Guides Licensing Board (OGLB). **Mr. Hendricks** stated that OGLB has taken it upon themselves to require licensing for about every recreational activity, even when the activities are conducted entirely on private property. The current statute does not authorize that, nor do the current rules. OGLB gets their authority from a 1992 Idaho Supreme Court case.

Mr. Hendricks said that what happened in that case was a man from Franklin County was guiding deer hunts on his private property. OGLB sent in an undercover agent who contracted with this man for a guided deer hunt. The man was guiding without a license, but was following all the fish and game rules. This man's defense in court was that he was on his own property and did not need OGLB's license. The Idaho Supreme Court, in their decision, determined because the statute was completely silent as to the difference between public and private property, and because the State has interest in regulating fish and game, and because the game belongs to everyone, the way the statute was written could indeed apply to private property.

Mr. Hendricks said that in their review of the decision, they agreed that the decision would apply to fish and game related activities under that statute, but they do not believe that it gives OGLB, under the current statute, carte blanc to go ahead and regulate all recreational activities when they are on private land. Since that time, OGLB has expanded their scope of activities for which they require a license. Their rule currently defines these activities as including, but not limited to, trail rides, wagon rides, sleigh rides, backpacking, bicycling, and other similar activities.

Mr. Hendricks gave some examples of how this is being applied today: 1) There is a party who has a ranch, and also operates a dude ranch as part of his operation on the premises, with people riding horses, fixing fences, moving cattle, and taking part in that lifestyle. Currently, OGLB requires him to have a license. 2) There is a private fish hatchery who has their own fish that they raise and keep for breeding stock. Towards the end of their useful life, the fish are tagged and put in their private pond. A fishing derby is advertised by the owners and they charge a small fee for participation. When the fish are caught, prizes are given to the participants. Under the current laws and rules, they would be required to have an Outfitters and Guides license. 3) A farmer gives wagon rides, on his private property, out to his pumpkin patch and customers select their pumpkins, then return to their vehicles. Under the current rules, he is required to have a license to operate the wagon rides.

Due to time constraints, **Chairman Pearce** said that the discussion of **H 597** would continue on Friday, March 14. **HJM 10** and **H 398** will also be carried over.

ADJOURNED:

Chairman Pearce adjourned the meeting at 3 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Friday, March 14, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|-------------------------------|--|---|
| <u>H 597</u> | Outfitters and Guides - Continued discussion | Russ Hendricks |
| <u>HJM 10</u> | Columbia River Treaty | Rep. Gayle Batt |
| <u>H 398</u> | Fish and Game, discounted licenses | Sharon Kiefer, Deputy Director, IDFG |
| <u>H 470</u> | Wolf Depredation Control Board | Sen. Brackett |

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippetts
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, March 14, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 P.M. He welcomed the audience members to the meeting and said discussion of **H 597** would continue as it has been carried over from Wednesday. He advised those that wanted to testify that they would be limited to three minutes.

TESTIMONY: **Mr. Daniel Luker** testified in opposition to **H 597** and is representing himself. His concern is regarding consumptive use, as the wild game belongs to all Idahoans. Also, he feels that the bill is too broad. Another issue is the removal of the oversight provided by the Outfitters and Guides Licensing Board (OGLB) on private land. He suggested sending the bill to the Amending Order to review it further.

TESTIMONY: **Mr. Pat Cudmore** also testified in opposition to **H 597**. He said this bill is in direct contradiction to Idaho Code § 36-1604 which became law to encourage landowners to allow free access to their lands and to protect them from liability. He questioned if we can have a law that allows charging permission to enter private land when we have a law on the books that is opposed to that. Idaho Code § 36-1604 implies if a landowner charges for access they are not protected from liability, and nothing in this law protects landowners from liability from client injuries, death, etc.

Mr. Cudmore stated that there are no restrictions as to who may become a guide. Also, there is nothing in this legislation that defines what a guide/outfitter is and he feels this bill will make hunting and fishing a rich man's sport. In closing, **Mr. Cudmore** urged the Committee to oppose **H 597** for the reason that our Idaho hunting heritage deserves this protection for our future generations of sportsmen and access that we all enjoy. A copy of his testimony is on file (see attachment 1).

TESTIMONY: **Mr. Jim Lowe** is here on behalf of the Food Producers of Idaho, representing a broad base of Idaho agriculture and natural resource interests. Their membership has over 40 farms, agribusinesses, and commodity organizations. They are in support of this legislation because of the implication of private property rights.

TESTIMONY: **Mr. Jay Stark**, representing himself, said he is opposed to **H 597**. He is a member of the Idaho Sportsman Caucus Advisory Council, which has 25 sportsman's organizations that are involved, and he is not aware of any of them being included in the conversations with the Farm Bureau regarding the drafting of this bill.

TESTIMONY: **Mr. Daniel Butler** is a rancher and is opposed to **H 597**. He owns and operates the Springfield Ranch near Bliss, Idaho and is a firm believer in private property rights. He feels that every landowner has a right to be an outfitter, but they must obtain the license to do so. **Mr. Butler** said that around 100 years ago, his grandfather started the Idaho Society for Civil Engineers and was awarded license number 1. Since that time, almost every profession in the State requires a license. The reasons for licenses for outfitters are just as valid as all those other professions.

Mr. Butler also owns an outfitting business and is licensed for deer and elk hunting on seven private ranches, the BLM and IDL properties. He talked about the need for insurance as an outfitter and also as a rancher.

TESTIMONY: **Mr. Paul Waldon** is a resident of Boise and testified in opposition to **H 597**. He has hunted waterfowl since 1980 and turkey since 1983. He was asked to serve as a sportsmen's representative on the Idaho Chapter of the Wild Turkey Federation Advisory Group. **Mr. Waldon** said that he is a staunch private property rights advocate. Guiding and outfitting on private land for game and fish, owned by the state of Idaho, is no more right than it is for him to operate a rock crushing plant on ten acres that is inside the Boise city limits. He said that if this bill is allowed to pass, it will have unintended consequences and collateral damage - do not let it pass.

TESTIMONY: **Chairman Pearce** invited Mr. Hendricks to "wrap up" the discussion on **H 597**. **Mr. Hendricks** said it has been a very thorough and interesting discussion and reminded the Committee what **H 597** does - and that is to remove the requirement for a landowner to have to pay \$450 every year to the OGLB for a license to hold some recreational activities on their property. The bill does not change the existing OGLB operations and he asked for the Committee's support of the bill.

WRITTEN TESTIMONY: Written testimony was submitted by **John Huber, Nick Purdy, and the staff at Picabo Angler** in opposition to **H 597**. Their testimony is on file (see attachment 2).

WRITTEN TESTIMONY: Written testimony was submitted by **Linda Rider**, Rider Ranch, in support of **H 597**. Her testimony is on file (see attachment 3).

WRITTEN TESTIMONY: Written testimony was submitted by **Mark Harris** in support of **H 597**. His testimony is on file (see attachment 4).

WRITTEN TESTIMONY: Written testimony was submitted by **Milan Zabka** in support of **H 597**. His testimony is on file (see attachment 5).

MOTION: **Senator Heider** moved that **H 597** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Vice Chairman Bair**.

SUBSTITUTE MOTION: **Senator Cameron** made a substitute motion. He moved that **H 597** be held in Committee. **Senator Stennett** seconded the motion.

Senator Stennett stated that she has two issues with the bill. She would like a better definition of "landowner" and more clarity regarding insurance.

Senator Cameron said he is a strong supporter of private property rights but feels the bill goes beyond the intended scope of purpose. Waterways and waterfowl are an issue that needs more attention. He would like to see more research done on this bill.

Senator Brackett inquired if a license was needed for him to take a friend hunting on his property. He was told that if he didn't charge or advertise, a license was not needed, as the current law now stands.

Senator Tippetts said with regards to the landowner, he feels it is the person who legally owns the land or someone who is legally authorized to act on behalf of the landowner. As far as waterways, it is up to the landowner to know where his/her property boundary is located. The issue of taking public resources is a more difficult issue. **Senator Tippetts** said that the Department of Fish and Game controls the taking of consumptive use, and they determine when and how many animals are taken, and the State receives the revenue from the license and fees for that consumptive use.

Senator Tippetts said landowners need to be recognized for the contribution they make to the State, considering the cost and destruction that game animals cause on the landowner's property - consuming food, breaking fences, etc. **Senator Tippetts** said it seems like a reasonable thing to do to allow a landowner to use his or her property and to be able to charge a fee for providing services to people who may hunt on their property without being required to get a license from the OGLB.

Vice Chairman Bair spoke to the waterway issue and said the high water mark is the defining line between private property and Idaho waterways. All water belongs to the state of Idaho. A guide with clients in a boat would need a license, but an owner on his or her private land would not.

Vice Chairman Bair stated that he has had some concerns about the expansion that has happened over the years with the OGLB. He had some research done regarding the outfitters and guides, and he said that clearly, guiding and outfitting was intended for backcountry uses when the law was put into effect in 1951. The next major change came in 1961 when they required an outfitter to accompany photographers in the backcountry (where automobiles could not go). The next change was in 1976 with more expansions to include boats, river craft, and rafting. It was also taken from the Department of Fish and Game, and the OGLB was created. The current law includes overnight trail riding, backpacking, mountaineering, cross country skiing, alpine skiing, snowmobiling, survival courses, fishing courses, motor and non motor cycling, wagon rides, sleigh rides, and dogsled rides. **Vice Chairman Bair** feels that the outfitters have expanded too far and if a landowner wants to have a wagon ride on his property and charge admission, they should be able to do that without having to acquire an outfitters and guides license.

Senator Siddoway said that as a property owner, he is declaring a conflict of interest under Senate Rule 39. **Chairman Pearce** asked the other Committee members if they so wished to declare a conflict, which they did. **Senator Siddoway** said there will be abuses and if the bill passes, it will need to be revisited next year.

Senator Heider feels that too much is being read into the bill. The bill allows people to use their private property any way they want and it is a good bill.

Chairman Pearce said that he usually doesn't weigh in on the discussions of the bills, but he said you either believe in property rights or you don't. He then asked for a roll call vote on the substitute motion.

**SUBSTITUTE
MOTION:**

Voting aye for the substitute motion of holding **H 597** in Committee were **Senators Lacey, Stennett, and Cameron**. **Senators Tippetts, Heider, Siddoway, Brackett, Bair, and Pearce** voted nay. The motion failed.

**ORIGINAL
MOTION:**

Voting aye for the original motion of sending **H 597** to the floor with a **do pass** recommendation were **Senators Tippetts, Heider, Siddoway, Brackett, Bair, and Pearce**. Voting nay were **Senators Lacey, Stennett, and Cameron**. The motion carried. Chairman Pearce will be the sponsor.

- HJM 10:** **Senator Patrick** said that **HJM 10** deals with the Columbia River Treaty. This Memorial urges the U.S. State Department to support certain positions in negotiations with Canada regarding any modification or future implementation of the Columbia River Treaty. In 1961, there were some reservoirs built in Canada to help control the floods in the Columbia River and to produce electricity, which was effective. In the process of renewing, there is some controversy between countries and other interests. **Senator Patrick** stated that this Memorial is to address how Idaho feels and to ask the U.S. State Department to intervene on Idaho's behalf.
- MOTION:** **Senator Siddoway** moved that **HJM 10** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Vice Chairman Bair**.
- TESTIMONY:** **Mr. Brian Patton**, Idaho Department of Water Resources (IDWR), reported that the Water Resource Board has been participating in this process and is in support of **HJM 10**.
- Senator Stennett** inquired as to whose jurisdiction this will be, and is Idaho asking the federal government to assert on our behalf in the international treaty. **Senator Patrick** said it is for Idaho and also for the Columbia River Basin, which is in the northwest. Only a small part is in Canada.
- Chairman Pearce** said a motion had been made to send **HJM 10** to the floor with a **do pass** recommendation. The motion carried by unanimous **voice vote**. Senator Patrick will be the sponsor.
- H 398:** **Ms. Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game (IDFG) presented **H 398**. She stated that the Fish and Game Commission (Commission) supports this bill.
- The Commission has legislative authority to use Commission orders to discount tag fees upon finding a biological, public, or unsold tag need. Currently, discounts must be framed in terms of specific species, units, areas, zones or gender to encourage increased tag sales and any Commission order is effective only for a specific time period.
- This bill would give the Commission authority to also discount licenses and permits in addition to their current discount authority for tags. This proposal gives the Commission more flexibility for the basis of the discount, including to encourage every-year license purchase, or to encourage purchasing multiple tags and permits, or to encourage people to hunt, fish, and trap - both residents and non residents.
- The Department has been open about their desire to shore up their license revenue to meet legislatively approved programs, keep up with inflationary costs, and fulfill necessary governance decisions about statewide employee compensation. As an example, important and necessary decisions of the 2014 Legislature that benefit their employees will need to be funded with close to \$1.1 million in additional license revenue.
- The sale of licenses, tags, and permits currently comprises about 35 percent of their total budget and supportse several programs, such as enforcement, WMAs, and the resident hatchery program. A full copy of Ms. Kiefer's testimony is on file (see attachment 6).
- MOTION:** **Vice Chairman Bair** moved that **H 398** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Senator Cameron**. The motion passed by unanimous **voice vote**. Vice Chairman Bair will be the sponsor.

H 470:

Senator Brackett said he first wanted to explain what **H 470** is and is not. He said the bill is a funding bill and is necessary for wolf management, including control. Former funds are being suspended or reduced by the federal government. This funding bill is necessary to ensure that Idaho's objectives to address wolf depredation and conflict are funded. Just because the Feds walked away from their responsibility doesn't reduce conflict or mean that the problems will go away.

Senator Brackett then explained what **H 470** is not. It is not a wolf management bill, nor is it a wolf extermination bill. It does not compensate owners for their losses. Funding has decreased and more control will equal less depredation and less need for compensation dollars. There is a misconception that this bill only allows for lethal control. Non lethal actions for domestic animal protection is not excluded from funding considerations with the Fish and Game's License Fund (Fund) in **H 470**.

Senator Brackett said that page 1 of the bill is legislative intent and he read from Section 1 as follows: "The Legislature finds that additional financial resources are needed to help continue in the implementation of Idaho's wolf management plan. It is the intent of the Legislature to establish a governing board to provide funds for the management and control of depredating wolves in Idaho." Section 2 identifies each of the five members that will comprise the board. **Senator Brackett** explained the remainder of the bill, reviewing the power and duties of the board, the Fund, assessments, and matching assessments.

In closing, **Senator Brackett** said to summarize, the top priority is to continue the delisting status for wolves and at the same time, continue to manage and control the depredating wolves. Idaho's probationary period ends in 2016, and to be successful we must keep the State's management and control in line with Idaho's proven wolf management plan. Wolves are classified as big game animals, just like mountain lions and black bears. This was done in part to ensure everything is delisted and under state management. Wolf trapping and hunting by sportsmen are the preferred methods of management and control, but in some areas, hunting and trapping has not been sufficiently effective in reducing livestock and elk depredation. Last year, 2013, there were 43,505 hunting tags sold and 478 trapping tags sold.

Senator Brackett stated that he asked the Attorney General for his opinion and that office raised a constitutional issue. They reported that the number of departments in state government is limited, and a suggestion was made to amend the bill to place it within the Office of the Governor. If the Committee is so inclined, **Senator Brackett** suggested to send the bill to the 14th Order (Amending Order) for possible amendment. He then yielded his remaining time to the cosponsor of the bill, Representative Gibbs.

Representative Gibbs said he had nothing to add to the presentation by Senator Brackett.

After a lengthy discussion by the Committee, testimony was taken from the audience.

TESTIMONY:

Voicing support for **H 470** was **Mr. Stan Boyd**, on behalf of the Idaho Wool Growers Association. They understand that it raises assessments on their resources. They voted to assess two cents per pound on wool to go towards the Fund.

TESTIMONY:

Mr. Ken Cole, Western Watersheds Project, opposed **H 470**. He objects to taking money from the Fish and Game license fees and giving it to the Fund. He feels the livestock owners should pay for wolf control. **Mr. Cole** also stated that wolf numbers have decreased by 30 percent since 2009.

- TESTIMONY:** **Ms. Deb Lord** said she is in support of **H 470** and she serves on the Idaho Fish and Game Advisory Committee. She is also a volunteer with the Idaho Cattle Association. **Ms. Lord** said she wanted to point out that the money that goes into the Fund is replacing the federal funding that will be discontinued. She stated that they chose to get a handle on the depredating wolves, rather than ask for compensation for damages. **Ms. Lord** said she wanted to remind people that the money will be used to only control wolves that are depredating, it is not population control. There is a lot of depredation that occurs on private land.
- TESTIMONY:** **Mr. John Robison**, Public Lands Director, Idaho Conservation League, said they are in opposition to **H 470**. They feel that the creation of a new board is redundant and unnecessary. Idaho has an Animal Damage Control Board and this board may receive and disperse funds from any source for the purpose of controlling predatory animals. **Mr. Robison** said this is not the best use of public funds. He recommended that funds from the General Fund and the Livestock Fund should be made available for the additional option of non lethal proactive control.
- TESTIMONY:** **Mr. Russ Hendricks**, representing the Idaho Farm Bureau Federation, said they support **H 470**. Wolves don't always recognize boundary lines between public and private land and increasingly, more and more depredation is occurring on private property in spite of all the efforts of the ranchers. He said **H 470** agrees with what the Task Force put together when the Governor addressed this issue. **Mr. Hendricks** said the members are not thrilled about raising fees on themselves and feel it is the responsibility of the federal government to manage the wolves that they reintroduced in Idaho.
- TESTIMONY:** **Mr. Zachary Jones**, representing himself, said according to science and biology, more wolves are better and less are not. He would like the Committee to do a better job of understanding the science behind the wolves and their importance in the environment, as he would like to walk among them. **Mr. Jones** said he feels that this bill has a hidden agenda and it is not meant specifically for funding, as it will allow Governor Otter to appoint all five members of the Board and he would have open control. We all know his standpoint on wolves. **Mr. Jones** is upset and he feels there are members on this Committee that have broken the law when it comes to harvesting wolves.
- Vice Chairman Bair** objected to Mr. Jones' comment, as did Senator Siddoway. **Mr. Jones** asked if he was wrong and was told that he was "dead wrong". **Mr. Jones** then told Senator Siddoway that in 2009 he broke the law. At that point, the Chairman gaveled Mr. Jones down and said that ended his testimony.
- TESTIMONY:** **Mr. Stephen Goodson**, Special Assistant to the Governor for Natural Resources, said he is here today to speak in favor of **H 470**. With regards to a separate board, **Mr. Goodson** said the Governor specifically requested that the board have oversight over the funds if the State was going to put General Fund dollars into this account. In the Governor's State of the State address, he said the three pronged approach will provide the revenue needed to more effectively control Idaho's wolf population and ease the impacts on our livestock and wildlife.
- TESTIMONY:** **Mr. Dar Olberding**, Chairman of the Fish and Game Advisory Committee, said that they have worked long and hard on this issue for three years and now they are in favor of doing whatever it takes.
- TESTIMONY:** **Mr. Wyatt Prescott**, Executive Vice President of the Idaho Cattle Association, said they are in full support of **H 470** and are supportive of the all-inclusive Board that this legislation provides. The Association is in full support of the \$25 fee that will be levied at the time of brand registration.

TESTIMONY: **Ms. Sharon Kiefer**, IDFG, provided copies of her testimony to the Committee (see attachment 7) and is also on file. She stated that regardless of one's views about wolves, the State of Idaho has an enduring management responsibility. Idaho has supported and promoted delisting and we have clearly accepted wolves as a state management challenge. We are currently in a five year period of delisting oversight by the United States Fish and Wildlife Services until May 2016.

She continued her testimony by saying it is clear that at least for the near term, wolves will be expensive to manage. IDFG alone has spent well over \$1 million in FY 2013. In contrast, they sold 48,630 hunting tags and trapping tags, bringing in less than \$400,000 in revenue. The cost of wolf management has been exacerbated by diminishing federal funds to uphold the Idaho Wolf Conservation and Management Plan, approved by the Legislature in 2002 and used as a foundation for federal delisting.

For the 2013-14 wolf season to date, a total of 177 wolves have been harvested by hunting and 87 harvested via trapping, and the season continues. The Fish and Game Commission has continued to authorize hunting and trapping rules and seasons that are effective and efficient that maintains a regulated season and a wolf population that precludes need for any federal status review for relisting.

Ms. Kiefer stated that **H 470** is about funding and funding oversight for wolf depredation control. It does not implement specific management actions, that remains the purview of the IDFG. The bill has a sunset clause of 2019 to allow the Legislature and stakeholders to evaluate the "need" - is the funding framework of **H 470** still effective and efficient? Do fund sources need realignment? The Commission supports **H 470** and believes it merits a do pass from the Committee.

MOTION: **Vice Chairman Bair** moved that **H 470** be sent to the 14th Order for amendment. The motion was seconded by **Senator Cameron**.

Senator Siddoway said that he needed to declare a conflict of interest as he pays into these funds and has had conflicts with wolves. Other Committee members declaring a conflict of interest were **Senators Brackett, Heider, Bair and Pearce**.

Chairman Pearce said a motion had been made to send **H 470** to the 14th Order for amending. The motion carried by unanimous **voice vote**. Senator Brackett will be the sponsor.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 4 P.M.

Senator Pearce
Chair

Juanita Budell
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:00 P.M.
Room WW55
Thursday, March 20, 2014

| SUBJECT | DESCRIPTION | PRESENTER |
|------------------------|---|---------------------|
| Recognition | Honoring our Page, Lydia Woodland | Chairman Pearce |
| Approval of Minutes | Minutes for March 12, 2014 | Senator Heider |
| Approval of Minutes | Minutes for March 14, 2014 | Vice Chairman Bair |
| HCR 62 | Coeur d'Alene Tribe/water rights claims | Senator Nonini |
| Report | Sage Grouse/Raven Control Report | Sharon Kiefer, IDFG |

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Pearce
Vice Chairman Bair
Sen Cameron
Sen Siddoway
Sen Brackett

Sen Heider
Sen Tippetts
Sen Stennett
Sen Lacey

COMMITTEE SECRETARY

Juanita Budell
Room: WW37
Phone: 332-1323
email: sres@senate.idaho.gov
Page - Lydia Woodland

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Thursday, March 20, 2014

TIME: 1:00 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts and Lacey

ABSENT/ EXCUSED: Senator Stennett

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:00 p.m.

RECOGNITION OF PAGE: **Chairman Pearce** asked the Committee Page, Lydia Workman, to come forward so that she could be honored by the Committee. He presented her with a letter of recommendation, signed by all the Committee members, and a monetary gift, also from all the members. Lydia is very involved in Business Professionals of America, qualifying recently for a national competition in advanced accounting tests, which will be held in Indiana. The Committee thought she might enjoy some spending money in Indiana as a reward for her good work during the last half of the Legislative Session.

Lydia thanked the Committee for their generosity and also for their helpfulness in teaching her how to "peaceably disagree with one another" and still get the job done. She said she plans to go to BYU Idaho to study business and accounting to become an accountant. **Senator Cameron** stated that he was honored to sponsor Lydia. He said that she is a very bright young lady and is following in her sister's footsteps (her sister served as a Page for Senator Darrington several years ago).

MINUTES: **Senator Heider** moved that the Minutes of March 12, 2014 be approved. The motion was seconded by **Senator Siddoway**. The motion carried by unanimous **voice vote**.

MINUTES: **Vice Chairman Bair** moved that the Minutes of March 14, 2014 be approved. The motion was seconded by **Senator Cameron**. The motion carried by unanimous **voice vote**.

HCR 62: **Senator Nonini** presented **HCR 62**. He read the first paragraph of the Statement of Purpose which says: "The Coeur d'Alene-Spokane River Basin Adjudication (CSRBA), now pending in the Fifth Judicial District Court, is currently at a procedural stage which would be conducive to resolution, through negotiation between the State of Idaho, Coeur d'Alene Tribe and the other water users in the Basin to determine the nature and extent of the valid water rights within the Basin."

Senator Nonini said there are three things he wanted to point out regarding this legislation and that is: 1) That any proposed settlement must be ratified by the Legislature of the state of Idaho; 2) That legislators from the legislative districts of 2, 3, 4, 5 and 7 shall develop a process; and 3) That there will be open and equal participation.

Through this concurrent resolution, the Legislature encourages and requests that negotiations be held between the parties, that they will be successful and will best protect existing water uses, and address the unique characteristics of the region. Negotiations, in hope of avoiding litigation, is in the best interest of all stakeholders.

Senator Nonini thanked Neil Colwell for his help in putting this resolution together. The first resolution that was brought before the House failed.

TESTIMONY: **Mr. Lynn Tominaga**, Executive Director, Idaho Ground Water Appropriators (IGWA), said he wanted to give the Committee some background information regarding previous agreements. In the late 80s, he was involved in the Sho-Ban Water Right Agreement and also with the Nez Perce Agreement when it started out. Both processes took over ten years and he advised the Committee to keep the adjudication process moving. He feels Idaho has a good reputation working with the Indian tribes. Some people are optimistic, thinking it will only take four years, but Mr. Tominaga said with his past experience, it will take ten years or more. The IGWA is in support of **HCR 62**.

MOTION: **Vice Chairman Bair** moved **HCR 62** to the 10th Order with a **do pass** recommendation. The motion was seconded by **Senator Brackett**. The motion carried with unanimous **voice vote**. Senator Nonini will be the sponsor.

REPORT FROM IDFG: **Chairman Pearce** stated that he requested that Ms. Sharon Kiefer, Deputy Director, Idaho Department of Fish and Game (IDFG), provide an update on the sage-grouse/raven project today. Ms. Kiefer could not attend (nor could any other employee) today's meeting, as the Idaho Fish and Game Commission is in town, and they are required to be there. Ms. Kiefer did provide a report on the raven control project, including a map of the various zones (see attachment 1).

Highlights from her report are as follows:

- * IDFG is evaluating lethal control of ravens as a tool to benefit sage-grouse populations;
- * IDFG has received a permit from the U.S. Fish and Wildlife Service (USFWS) to remove common ravens at three study sites in Southern Idaho;
- * Greater sage-grouse are currently a candidate for listing as a threatened or endangered species under the federal Endangered Species Act;
- * Data indicate that ravens have increased an average of 4.2 percent per year since 1966;
- * Ravens are a documented primary nest predator of sage-grouse eggs and chicks; and
- * Raven control is planned to take place in 2014 and 2015 and would occur from mid-March to mid-June, which coincides with the sage-grouse nesting season.

Senator Brackett thanked Chairman Pearce for pursuing this issue. It was important last year when funding became available and nothing happened then, and he is disappointed now that very little has happened.

TESTIMONY: **Mr. Stan Boyd**, representing the Idaho Wool Growers and Cattle Association, said he is glad the IDFG is working on the raven project, but it looks like it might be 2015 before much will be done on the ground.

PRESENTATION: **Chairman Pearce** presented the Secretary, Juanita, with a beautiful basket of spring flowers as a thank you token for her contribution of hard work for him, as well as for the Committee. Juanita was a bit overwhelmed by the gesture and kind remarks from everyone. She thanked the Chairman and all the members of the Committee.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 1:35 p.m.

Senator Pearce
Chair

Juanita Budell
Secretary